

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

UNITED STATES OF AMERICA	:	
	:	
Plaintiff,	:	Criminal Action
	:	No. 1:17-cr-00222-LO
v.	:	
	:	
WILLIAM S. WILSON and	:	
	:	
MATTHEW KEKOA LUMHO,	:	June 22, 2021
	:	9:30 a.m.
	:	
Defendants.	:	
	:	
.....	:	

DAY 10 - MORNING and AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE LIAM O'GRADY, and a JURY
UNITED STATES DISTRICT COURT JUDGE

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MORNING SESSION, JUNE 22, 2021

(9:35 a.m.)

THE COURT: All right. Good morning. I see all counsel and Mr. Lumho and Mr. Wilson are here. Good morning to everyone. Thank you again for the jury instructions. I've gotten them and looked them over and we've made some changes, and we'll see where we are at the end of the case for purposes of any modifications we need to make. Mr. Burke.

MR. BURKE: Your Honor, I did have one housekeeping matter. So we have been excluding all of our agents with the exception of Ms. Russo. I guess the housekeeping matter I had is that at this point we do not see any likelihood that we would call Special Agent Brian Futagaki or Special Agent Julian Donuwa in any rebuttal case. I'm not sure we're going to have a rebuttal case, but if we do I can't imagine we'll call either agent.

THE COURT: Okay.

MR. BURKE: I don't expect the defense to call either of those agents to complete impeachments or for anything else. And so if the defense can tell me whether they still need to exclude them, then we'll exclude them, but if there's no need.

MR. AMOLSCH: No need.

MR. STEWART: No need.

MR. BURKE: Then Your Honor, I guess I would ask that Special Agent Futagaki and Special Agent Donuwa be allowed to sit

1 in the courtroom. But, in an abundance of caution, I would ask
2 that Special Agent Giardina and Ms. Rachel Bingham, who I do not
3 see, not enter the courtroom until we figure out if there's
4 anything further from either of those witnesses.

5 THE COURT: All right. That's fine.

6 MR. SEARS: Your Honor, I have -- I hate to do this to the
7 Court but there is an issue that came to my mind this morning
8 with regard to the jury instructions. And all I can say in my
9 defense is that I was so hyper focus on honest services fraud
10 that I may not have paid as close attention to some of the other
11 instructions.

12 And the conversation I had with Mr. Burke last night about
13 the good faith instruction and then this morning going through,
14 you know, more carefully, the instructions that were sent to the
15 Court last night, I realize that from our perspective there's a
16 missing element in the false claims instruction. I believe it's
17 on page 86 of the government's submission last night. And what's
18 missing, from our perspective, Your Honor, is a requirement that
19 the government prove that the defendants acted willfully. There
20 is a split in the circuits on that issue.

21 My reading of the 4th Circuit case that addresses this
22 issue, which is United States versus Maher, M-A-H-E-R, it is 582
23 F.2nd 842. I will tell the Court it is an old case, it is 1978.
24 It was before Judge Bryan. Plato Cacheris was the defense
25 attorney in the case. Bill Cummings was the U.S. Attorney, so

1 it's kind of the who's who of EDVA back in the day.

2 And Judge Bryan gave an instruction in a false claims case
3 trial that required, you know, the government to show -- prove
4 that the defendant acted willfully with the intent to violate the
5 law. And as far as I can tell, that is good law, still, even
6 though it's a 1978 case. It doesn't even have a yellow flag on
7 it in Westlaw so it's about as good as it gets.

8 And I sent to the government this morning -- I didn't come
9 across this issue until this morning, and so I sent the case to
10 the government.

11 I also sent them links via e-mail to two Department of
12 Justice guidelines on false claims acts cases. One was a tax
13 division one was a criminal division, and both of those documents
14 or Web sites seem to recognize that the 4th Circuit does require
15 that element.

16 I think that if the government agrees that it's a quick
17 fix, just adding that word to -- willfully, adding "willfully" to
18 the element -- to one of the elements of the offense that's
19 already in there, and we already have the willfully instruction
20 as relates to the false statements counts. So it just needs to
21 be referenced to that or move that one up further up to the false
22 claims.

23 So I think it can be a quick fix, but I also, in addition
24 to that, Your Honor, I wanted to preserve an argument that we
25 believe that there should -- that the law should require a

1 specific intent to defraud with regard to false claims. I can
2 tell the Court in the 4th Circuit and many other circuits it is
3 not a requirement with regard to false or fictitious claims. The
4 false claims statute charges false fictitious or fraudulent
5 claims.

6 As far as I can tell, and according to the instruction
7 that will be provided in this case, false and fictitious claims
8 do not require an intent to defraud. It's just a fact that it
9 was false, you knew it was false, and you submitted it.

10 Fraudulent claims appear to require an intent to defraud.
11 I am not smart enough despite my efforts to figure out the
12 difference between a false fictitious and fraudulent claim, but
13 that's what the law appears to be. And I just wanted it to be
14 clear on the record because this is an issue that we may take up
15 given the facts of this case, that we believe the government
16 should have to show -- prove a specific intent to defraud. And I
17 recognize it's not the case law as it exists right now, at least
18 with regard to false and fictitious claims, but I wanted to
19 reserve the argument, Your Honor, and I should have done that
20 yesterday, and I apologize for not doing so.

21 THE COURT: That's quite all right. There was a lot going
22 on with the instructions. Mr. Burke.

23 MR. BURKE: So, Your Honor, I agree with Mr. Sears as to
24 the second point. I think the law is, at least the state of the
25 law currently, as to Section 287, it does not require -- phrased

1 in the disjunctive and the courts I believe have ruled that. As
2 a result the government can prove it any of those ways and,
3 therefore, you don't necessarily need to show intent to defraud
4 on a false claims count.

5 The issue about willfully, Your Honor, it was only brought
6 to my attention this morning. I had a chance to glance at the
7 case that Mr. Sears brought to my attention, but I haven't had a
8 chance to really digest the issue.

9 I will note that the text of Section 287 does not say
10 anything about willfully. It says, "Knowing such claim to be
11 false, fictitious or fraudulent." And so I would simply ask the
12 Court's indulgence for a little bit of time, perhaps over the
13 lunch hour or early this afternoon to look at it, to look at the
14 *Hidell* case and to make a judgment about what we think the
15 correct language should be.

16 THE COURT: Yeah, that's fine. We'll all look at it when
17 we have an opportunity and then be able to or substantively
18 engage in discussion.

19 MR. BURKE: And, Your Honor, just one other thing I wanted
20 to flag, and I don't know that it needs to be decided right at
21 this moment, but I want to make sure that it's flagged for the
22 Court and for Council's consideration.

23 We've not yet had any discussions about potential
24 forfeiture jury instructions, or whether there will even be a
25 forfeiture jury trial. My understanding of the law is that the

1 defense -- so, so the forfeit -- if there is a forfeiture phase
2 it would apply only to Mr. Wilson because there are no specific
3 assets sought to be forfeited from Mr. Lumho.

4 And my understanding of the law is that the defense needs
5 to make an election prior to your charging the jury about guilt
6 or innocence about whether they would request a forfeiture jury
7 trial.

8 So I don't know that we need to decide that right now, but
9 I just wanted to make sure we had all thought about it and if
10 they want a jury trial, then we need to address the potential
11 forfeiture jury instructions.

12 THE COURT: All right. We also haven't discussed the
13 verdict form for the criminal phase, and you had proposed one.

14 MR. BURKE: Yes, Your Honor, and I will say that since the
15 one we proposed for the first trial, we've taken another look at
16 it. We've made some revisions. I have not had a chance to
17 finalize that or share with the defense but again I would expect
18 over the lunch hour, perhaps early this afternoon we hope.

19 And it may also depend upon whether or not either
20 defendant, or both defendants request a lesser include
21 instruction, that will affect what the verdict form says as well.
22 But we will continue to work with Counsel to try to come up with
23 a verdict form that everyone can live with. And I think it's
24 still somewhat in flux because we're not sure exactly what
25 instructions the defendants may request.

1 THE COURT: Okay.

2 MR. AMOLSCH: Your Honor, thank you. And just for the
3 record, if you could just please note that Mr. Lumho joins all of
4 the objections Mr. Sears put on the record.

5 THE COURT: Certainly.

6 MR. AMOLSCH: Thank you, sir.

7 THE COURT: All right. Well, Mr. Stewart, Mr. Sears,
8 think about the forfeiture issue, and I can say I've only had one
9 forfeiture case following a criminal conviction where the jury
10 was involved. Every other case, and I think most cases there's a
11 waiver of a jury, but there's an entitlement to a jury
12 determining forfeiture.

13 So think about that and let me speak with Mr. Wilson and
14 let me know because we'll use this same jury, should that
15 forfeiture case continue on with the jury. You know, and as soon
16 as they've made their decision on guilt or innocence, if they
17 found Mr. Wilson guilty of the charges that would require
18 forfeiture, then we'll go right into that phase. If we're going
19 to use the jury we won't recess the jury. So let's be ready for
20 that.

21 MR. STEWART: Your Honor, that's what we had anticipated
22 and we also expect that we'll have a decision for, Your Honor,
23 about waiver when the time comes.

24 THE COURT: Okay.

25 MR. STEWART: Thank you, Your Honor.

1 THE COURT: All right. Thank you. All right.

2 Anything before we bring our jury in? Is Mr. Lumho going
3 to testify?

4 MR. AMOLSCH: Yes, Your Honor. He is.

5 THE COURT: Okay. And so you -- we went over this in your
6 last trial, but -- and you testified in that case, but I'll
7 remind you that you have a right to remain silent and that
8 Constitution guarantees you that right and no inference can be
9 made of your guilt based on your failure to testify.

10 On the other hand, if you do testify, then certainly
11 you'll be subject to cross-examination as you were previously in
12 all of the areas that the government can rightfully go into. You
13 had an opportunity to discuss that with Counsel?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And you've decided that you want to testify in
16 the case.

17 THE DEFENDANT: Absolutely.

18 THE COURT: Okay. All right. Let's get our jury. Ira,
19 please.

20 (Jury in at 9:47 a.m.)

21 THE COURT: All right. Please, have a seat. Good morning
22 ladies and gentlemen. Thank you once again for making your way
23 back in here timely. We've been doing a little work out here. I
24 apologize for the delay. Let me have a show of nods that you
25 didn't do any investigation or research or talk to anybody about

1 the case.

2 THE JURY PANEL: (Nodded head affirmatively.)

3 THE COURT: All right. Thank you very much. All right,
4 Mr. Amolsch.

5 MR. AMOLSCH: Yes, Your Honor, we call Mr. Lumho, please.

6 (MATTHEW LUMHO, DEFENDANT IN THE CASE, SWORN)

7 DIRECT EXAMINATION OF MATTHEW KEKOA LUMHO

8 BY MR. AMOLSCH:

9 Q. Good morning, Mr. Lumho.

10 A. Good morning.

11 Q. And I'm going to tell you what the government told every
12 other witness, just make sure you --

13 A. -- not too close.

14 Q. Not too close, but not too far away.

15 A. Okay.

16 Q. Could you introduce yourself to the jury, please?

17 A. Good morning. My name is Matthew Kekoa Lumho. It's
18 M-A-T-T-H-E-W, Lumho, L-U-M-H-O.

19 BY MR. AMOLSCH:

20 Q. And how old are you, sir?

21 A. 46.

22 Q. And where were you born?

23 A. I was born in Fort Knox, Kentucky.

24 Q. And where did you grow up?

25 A. My father was an Army officer, so I grew up all over the

1 world, in Germany, California, Fort Leavenworth, ultimately here
2 in the Washington, D.C. area since I was in 4th grade.

3 Q. 4th grade. You said your father was a veteran?

4 A. Yes, sir.

5 Q. And what branch of the service was he in?

6 A. He was a colonel in the Army.

7 Q. Did he retire as a colonel?

8 A. He did, after 32 years in the Army.

9 Q. Did you go to high school around here?

10 A. I did. I went a high school in Fairfax County, Robert E.
11 Lee High School.

12 Q. Do you know what it's called now?

13 A. I don't.

14 Q. I know they changed the name.

15 A. Did they?

16 Q. Yeah. Okay.

17 A. I don't know.

18 Q. Did you play any sports when you were there?

19 A. Yes. I played lacrosse all four years of high school.

20 Q. All right. And did you have any particular position or
21 role on the lacrosse team?

22 A. I was a captain my junior and senior year. I played
23 attack.

24 Q. And did you play -- did you go to college afterwards?

25 A. I went to college. I was recruited to go to a number of

1 colleges, but chose to go to a community college in Baltimore,
2 Maryland, where they have a strong lacrosse team. So I went
3 there for a year, and decided after a year of schooling that
4 schooling and myself didn't get along very well, so I stopped
5 going to school.

6 Q. All right. What was that school?

7 A. It was Essex Community College.

8 Q. Essex Community College?

9 A. Which I think they changed their name.

10 Q. And are you married, sir?

11 A. I am.

12 Q. Who's your wife?

13 A. Delilah Lumho.

14 Q. Did she also work with you at the Office of the Inspector
15 General?

16 A. She did.

17 Q. What was her position there?

18 A. She was the chief of administration, logistics division.

19 Q. Did other -- were there other people who worked at OIG
20 who were also married and working together?

21 A. There were a number of auditors then also. Folks in my
22 division that -- or in my directorate that were married.

23 Q. All worked together?

24 A. Yes.

25 Q. Do you have any children?

1 **A.** I do.

2 **Q.** And how old are they?

3 **A.** I have a 24 year old, Mia, and a 22 year old Nina, who
4 both live -- moved out recently, and a 16 year old -- or a 15
5 year old, and a 10 year old.

6 **Q.** All right. And do they live with you as well?

7 **A.** My son, my ten-year old lives with me.

8 **Q.** And what's his name?

9 **A.** His name is Kekoa as well.

10 **Q.** Do you call him little Kekoa, is that how you keep track
11 of it?

12 **A.** I call him a number of things but mostly it's either
13 buddy or Kekoa, yes.

14 **Q.** And do you also know a man named Fidel Ramos?

15 **A.** Yes.

16 **Q.** And who is Fidel?

17 **A.** He is my father-in-law.

18 **Q.** And does he live with you?

19 **A.** He lives -- yes, he does live with me.

20 **Q.** Okay. And how did that come to be?

21 **A.** So he had moved from California where he -- where he grew
22 up and was living to Mexico with a girlfriend of his, and he
23 lived in a small little town near Queretaro, Mexico with his
24 girlfriend, and he started a little secondhand store.

25 And after a few years the relationship started to break

1 up, and so he didn't have any family there and he -- I think he
2 was -- he wasn't happy there anymore. So he came -- after my
3 son was born, my son was almost six months old, we convinced him
4 to come visit to see his grandson, knowing that we were going to
5 try to convince him that you should be with family and not away.
6 And so he came and visited and he hasn't left since.

7 Q. Okay. And where does he live in your house?

8 A. Initially, he lived in one of our spare bedrooms, but we
9 have an attic that's finished, it's a suite up in our attic, and
10 so he lives in our finished attic suite.

11 Q. Does he help look out for little Kekoa?

12 A. He does, yes.

13 Q. Does he have a particular name for little Kekoa?

14 A. Yeah. He calls him, "little buddy."

15 Q. His little buddy?

16 A. Yeah.

17 Q. Can you describe briefly your relationship with Fidel?

18 A. Um, it's -- I mean he's my father-in-law and I love him,
19 but he's -- he's another man in the house and we have our own
20 ways of doing things. So we don't see -- we're very cordial and
21 respectful of each other's space, and -- but -- we have a good
22 relationship, it -- it's just -- since the situation that's
23 happened here, we don't talk. We haven't talked very often.

24 Q. Are you still helping him out with his taxes and banking
25 and things like that?

1 **A.** So his taxes, for example, up until 2017 when all this
2 unfolded and happened, I had been doing his taxes. When he
3 first moved in with me he hadn't done his taxes since 2007 or
4 '08.

5 And so after the year of him living with me, I told him,
6 "You got to -- you need to get your taxes straight. The last
7 thing I want is for something as simple as taxes to come and
8 bite you."

9 And so I did his taxes for the -- from 2007 until 2012 or
10 the tax year of 2011, is when I caught up all of his taxes. So
11 I went back and did all of his taxes and paid all of his taxes
12 to make sure that he was straight.

13 **Q.** Who paid those?

14 **A.** I did.

15 **Q.** You did?

16 **A.** Yes.

17 **Q.** And why did you do that for him, rather than having him
18 do it himself?

19 **A.** He's not able to -- he wouldn't have be- -- he wouldn't
20 have been -- he gets frustrated very easily when he tries to
21 read and write. Yeah. He can read a bit, but my son can read
22 better than him. My son is going in 4th grade, my son. So he
23 gets very frustrated when -- when -- when he has to deal with
24 that.

25 **Q.** Do you have any volunteer activities outside of the

1 house?

2 **A.** Yes. So I -- since I was indicted, my current employer,
3 Department of Justice has me on indefinite suspension, so I'm
4 not able to work. So for the past three years I have been
5 volunteering at my church. We are -- the Burke Community Church
6 in Burke, Virginia. We have started a -- I'm sorry, I'm drawing
7 a blank what it's called. It's called the Community Outreach
8 Center.

9 So our church just rebuilt and we added on a huge new
10 section of our church and so we are able to -- we are starting,
11 and I was volunteering as a director of the Community Outreach
12 Center for our community, trying to look at gaps in our County
13 where the government is struggling.

14 So, yes, it's a big one. Adult generation transportation
15 is another one that I figured out is a gap in the community that
16 we can hopefully pardon that gap through volunteers and through
17 our church.

18 I do that. I'm also on an advisory board for a ministry
19 in Africa in Kaziba. It is an orphanage and a school combined
20 that takes kids that have -- you know, that are struggling, and
21 we put teachers and we send doctors there. And so I'm on an
22 advisory board for the -- specifically the orphanage of that 25,
23 40 ministry.

24 I also am involved in a small what's a -- it's a country
25 wide, but the chapter in Manassas, Virginia, it's called Sleep

1 in Heavenly Peace. We --

2 THE COURT: Slow down just a little bit.

3 THE WITNESS: Sorry. Sleep in heavenly peace in the
4 nonprofit organization. And we build beds for kids that don't
5 have beds. So the theory behind the nonprofit is all kids should
6 be able to have a bed to sleep in. So we literally build bunk
7 beds out of wood, and we get donations, and we get mattresses and
8 bedding.

9 And just a month ago or a month and a half ago, my son and
10 I went and built 12 bunk -- I'm sorry, 4 bunk beds, 12 beds for
11 families that needed it, refugees -- there was an Afghan refugee
12 family, a family from Bolivia, a family from El Salvador and a
13 Caucasian family in -- oh, and in another Virginia area that we
14 do. Sorry if I'm talking too fast.

15 BY MR. AMOLSCH:

16 Q. That's fine. So school didn't work out for you, you guys
17 didn't get along so well. Is that how you found your way into
18 computers?

19 A. Yes. So I started working at a small computer company in
20 McLea- -- in Sterling, Virginia building computers. So we would
21 kind of an assembly line build hundreds of computers from mother
22 boards, memory, hard drives, CPU. This was back in mid-90s.
23 And we would sell those to the government, and so we had
24 contracts with different departments downtown. So we would
25 build computers, load the operating system to the machine, and

1 then sell them to the government.

2 Q. How long were you there doing that?

3 A. I did that for about a year and a half until the company
4 split into two and we started doing the actual insulation of the
5 PC's. We had agencies that wanted us to not just sell them but
6 also install them. So then I started to -- I was contracted to
7 start installing these PC's that the company was building with
8 the Department of Justice.

9 A number of different agencies within the Department of
10 Justice, Civil Rights division, civil division, tax division,
11 the environmental and natural resources division, executive
12 office of immigration review division, so I was downtown and
13 selling PC's and hooking them up to their networks.

14 Q. At what point did you go to work at the State Department?
15 Was that around the same time? Is that part of what we're
16 talking about?

17 A. So after I started as an implementation manager for these
18 machines, I was -- I got a job at the Census Bureau and there I
19 was a -- I learned how to rebuild networks from old hubs to
20 network switches, which is a better technology. And then I was
21 hired at the Pension Benefit Guaranty Corporation.

22 THE COURT REPORTER: Where?

23 THE WITNESS: The Pension Benefit Guaranty Corporation.

24 I was -- actually, I did the upgrade of the Census
25 Bureau's infrastructure. I got a call from another company that

1 wanted me to do the same thing at the Pension Benefit Guaranty
2 Corporation in D.C., which is another government agency. And so
3 I was a contractor there for a number of years upgrading their
4 infrastructure to a new redundant robust network.

5 Then I was called by a company to work at the State
6 Department doing both networking and security, IT security.

7 BY MR. AMOLSCH:

8 Q. And then from there did you find your way to the
9 Department of Defense Office of the Inspector General?

10 A. From there, sorry, this is a -- from there, I was called
11 to go to the pentagon to assist them with migrating from the
12 Office of the Under Secretary of Defense policies division.

13 They were being -- when the pentagon was being renovated,
14 as their wedges were getting renovated, the Army was taking over
15 all the infrastructure. So all the departments needed to
16 negotiate with the Army on how to get their infrastructure into
17 the Army's infrastructure essentially. So I was the liaison
18 between the OUSD policy and the Army.

19 So I was there for a year and a half helping with the
20 renovation -- on the IT side, the renovation of the pentagon.

21 Q. And then from there?

22 A. From there I decided to apply for a government position.
23 And I was called to interview at the Department of Defense
24 Inspector General's Office in 2006.

25 So I went to the interview and Matthew Steiniger was the

1 branch chief of the telecommunications and networks division, so
2 I had an interview. The interview went very well. I helped him
3 with some issues that he was actually having while I was there.
4 And so I showed him how to fix the Spanning Tree problem that he
5 was having on his network. And so he hired me after -- after
6 the interview.

7 Q. So what was the name of the -- was it called the
8 Information Security Directorate?

9 A. Information Systems Directorate.

10 Q. Systems Directorate. And generally speaking, what did
11 you do when you very first started in 2006 or 2007?

12 What were your initial roles prior to you becoming chief
13 of the Unicom division?

14 A. So the Inspector General's Office, I was hired by Matthew
15 to do the same thing I did at the Census Bureau and the
16 Pension Benefit Guaranty Corporation, which was upgrade their
17 old network to a new redundant switched ten gig network. So
18 Matthew asked me if I could do that.

19 So my main focus at that time in 2006 and 2007 was
20 designing and implementing a new network for the Office of the
21 Inspector General's office.

22 Q. Did you work with the -- like Voice Over IP?

23 A. So after I designed and was approved for the
24 infrastructure upgrade, I could then layer more technology on
25 top of the secure robust network. Before I had gotten there,

1 their hubs wouldn't have been able to handle the Voice oIP. So
2 once I upgraded their infrastructure I was able to layer on more
3 technologies that would save and make the IG more cost-effective
4 and efficient.

5 Q. And how much do you think it saved OIG?

6 A. So initially, when I -- when I -- so the project for the
7 network infrastructure, at 400 Army Navy Drive, was I believe it
8 was about \$8 million. The upgrade for the Voice oIP I think was
9 \$4 million, but the savings we did every year was -- once we
10 have had the Voice oIP completely implemented we saved
11 \$1.8 million a year on ISDN lines, POTS lines, which are old
12 analog telephone lines, and long distance. We saved quite a bit
13 of money on telco lines after that.

14 Q. And one more question. Did you have a chance to look at
15 how OIG was billing -- being billed for their telecommunications
16 services through GSA?

17 A. Yes. So once I was upgraded and established myself, I
18 guess, as a -- as a good engineer, Matthew asked me to start
19 leading the network telecommunications team. So once I had the
20 team lead position, I -- we were just paying bills. We would
21 get bills from GSA for all of our ISDN lines, but once we
22 upgraded to Voice oIP and we started to cut those lines, we
23 still received bills. It was easy for me to see that we just
24 cut Ohio or Columbus, Ohio's ISDN phone lines and two months
25 later we're still getting bills.

1 So I had a contractor and a government employee focus on
2 just our billing. And so they started reviewing our bills and
3 we figured out that we had been paying for ISDN lines and analog
4 lines in total for four years -- I believe it was four years.
5 We had overpaid \$800,000 in bills to GSA because they just never
6 disconnected what we asked them to disconnect.

7 So we went back to GSA, showed them the disconnect that
8 we sent back in 2007, and once we talked to the right folks, we
9 were able to recoup the \$800,000 for the year. I think that was
10 2009 or '08. I think it might have been late '08 or early '09
11 when GSA was able -- refunded the money. When I say refunded,
12 they credited the agency back the \$800,000.

13 **Q.** All right. Make sure you step over there, and make sure
14 you don't get too far away.

15 So now am I right in 2009 you're a division chief and
16 just briefly, what were you focused on as the division chief
17 from 2009 until the time you left?

18 **A.** So in 2009, Matthew was promoted to director of ISD. So
19 Matthew then moved up from a GS-14 to a GS-15, so his position
20 obviously opened up, which I applied for and was interviewed by
21 a panel, including Matthew and was hired as the chief of the
22 telecommunications networks.

23 So after I became the chief in a supervisory role, I
24 reorganized our division from the Telecommunications Network to
25 the Unified Communications Network so that we can -- I can now

1 start laying more technologies on to our network.

2 Our video was still using ISDN lines for video
3 teleconferencing. We can now layer that into an IP address and
4 start using our infrastructure to do these video
5 teleconferences.

6 Our Blackberries, our cell phones, was another issue that
7 we were having. The agency didn't embrace everybody having
8 Blackberries at the time. They thought it was an expensive
9 thing, so we put -- I put together a case -- a white paper on
10 why cell phones in agents and auditors hands would help them be
11 more effective and efficient. Ultimately, we were successful
12 and we were able to get phones in everybody's hands.

13 **Q.** Were you ever asked to travel outside of the United
14 States on behalf of the Office of the Inspector General?

15 **A.** Yes. So as one of my responsibilities as the chief of
16 Unified Communications, was to -- we had at the time about 64,
17 65 field offices across the world, and the GSA leases were in
18 constant renewal.

19 Every five years -- most of our leases, I believe were
20 five years there might have been some ten-year leases, but as
21 leases are renewed the agency has a standard requirement of, for
22 example, for DCIS the new standard was a Grand Jury cage. And
23 so with our facility folks and with IT we would go out there and
24 update them to our current need.

25 So we would travel a lot to these sites that were being

1 renovated or moving to a new location to put fiber in the wall
2 for the infrastructure or bring in new telco lines or new Cat 6
3 cables instead of Cat 5. So we -- it required me to travel
4 quite a bit, or one of my staff to travel quite a bit so I
5 traveled to -- most states I traveled to in the past -- in those
6 years, and including Korea, Germany, Afghanistan, Iraq, Qatar,
7 Kuwait.

8 Q. Now, you've mentioned Matthew Steiniger was the one who
9 hired you?

10 A. Yes, sir.

11 Q. And he's the one who's job you were promoted into when he
12 was promoted?

13 A. Yes.

14 Q. Can you describe your relationship with him?

15 A. Um, obviously since he hired me into the government and
16 he hired me into the chief, he -- we got along very well. He
17 was a young leader. I wouldn't say he was a leader, I would say
18 he was more of a manager, he managed things. He definitely
19 didn't have the leadership skills to lead a directorate, but he
20 managed us, you know, and made sure we were on time and stuff
21 like that. But he -- he was a smart guy, he was very smart.

22 Q. Describe -- when you say his management style, was he --
23 I mean was he focused on what you were doing, was he aware of
24 your activities within --

25 A. So the culture of the Inspector General's Office, if I

1 can use that culture, we are an entity of the Department of
2 Defense. Most of the folks that work at the Inspector General a
3 lot of them have a military background. So there is a
4 definitely command and control element from the GS -- SCS's to
5 the GS-15, to the GS-14 to the GS-13.

6 So our -- it's called an AIG, Assistant Inspector
7 General, Mr. Steve Wilson, was a retired colonel and he was an,
8 in the weeds, tell me everything and I'll tell you -- and I'll
9 forget what I need to forget. But I want to know everything.
10 And so that kind of fell down to the directors, so Matthew was
11 absolutely a in the weeds micro managing because he needed to be
12 because Stephen Wilson would come down at 5:00 in the evening
13 and would want to know what's going on with everything.

14 And so we would have meetings about meetings often.
15 Updating Matthew before he had a meeting with Mr. Wilson, before
16 they had a meeting with the Inspector General about anything
17 that was going on. It was -- it was a -- definitely a
18 comunica- -- constant communication on what was going on.

19 **Q.** How often do you think you spent each day with
20 Matthew Steiniger in it? Did you see him briefly? Did you
21 spend time together in your office? Did you see him around?
22 How did that go?

23 **A.** Um, so we had a lot of meetings, formal meetings. We had
24 our weekly activity -- weekly staff meeting with Matthew. But
25 from a, how often we would see each other, Matthew would -- he

1 was -- he was most often in my office or I was in his office.

2 I don't think -- I think the other division chiefs
3 thought that there was favor with me on Matthew because Matthew
4 trusted me. I made him look good by redesigning our
5 infrastructure and started putting these things in place. So he
6 reaped the fruit that I built, and so he was in my office often.

7 Q. Jumping ahead and we're going to get to all of this,
8 Mr. Lumho, but did you ever submit a service order on the WITS
9 contract to Level 3 without first showing it to
10 Matthew Steiniger?

11 A. Never.

12 Q. Did he review every single one of them?

13 A. Every single service order request form, he physically
14 saw it.

15 Q. Let's talk about -- you talked a little bit about this
16 but is it fair to say -- so you had regular conversations with
17 him about your duties?

18 A. Yes.

19 Q. Okay. Regular conversations with him about the WITS
20 orders?

21 A. Yes.

22 Q. Did you have conversations with Stephen Wilson about the
23 WITS orders?

24 A. Yes, I did.

25 Q. Okay. Did you have conversations with Jennifer Paper or

1 anybody else in the comptroller's office about the WITS orders?

2 **A.** Every order that I placed, every order that I placed, I
3 had approval from Matthew and from the comptroller's office.
4 Now, I get the comptroller's office in the money folks, but they
5 looked at every single order I placed. I was not going spend
6 money without the comptroller telling me that we had money for
7 it, and budgeting for it. And I wasn't going to spend money
8 without Matthew telling me that it was okay.

9 **Q.** Did you have conversations with other people within the
10 information security division about your duties and about the
11 orders you were placing with WITS?

12 **A.** Many people, because the orders weren't placed from me.
13 There were a few that my division needed but a lot of stuff was
14 needed by other divisions. So they would come to me or they
15 would come to Matthew saying, "I need to get tapes. I need to
16 get stuff for our continuity of operations." Those were not
17 things that were in my AOR, not my area of responsibility, so
18 they would come to Matthew or they would come directly to me
19 saying, "Can you get this off WITS?"

20 **Q.** So they would come to you and say, just to make sure that
21 I heard, they would come to you and say, "Can we get this?"

22 **A.** Yes.

23 **Q.** This was not something that you went out actively trying
24 to solicit --

25 **A.** No.

1 Q. -- to put on the WITS contract?

2 A. There was no secret in ISD that we were using WITS and it
3 was a vehicle that everybody was jumping on to get stuff,
4 including folks outside of ISD.

5 Q. Now, do you know Mark Walker?

6 A. Yes, I do.

7 Q. Was he outside of ISD?

8 A. He was our chief architect.

9 Q. How about Brandon Williamson?

10 A. Yes, I do know him. He was our chief of business
11 operations.

12 Q. Was he also within ISD?

13 A. He was my peer, so he was the chief over the business
14 operations. I was the chief of unified communications, so him
15 and I were peers, we're both GS-14.

16 Q. All right. And with Matthew Steiniger let's start with
17 him. Did you have regular e-mail exchanges with him about your
18 duties?

19 A. Yes.

20 Q. Okay. Did you have regular e-mail exchanges with him
21 about the duties he's asked to you perform at the office of the
22 Inspector General?

23 A. Yes.

24 Q. Were these e-mails sent to you like in the regular course
25 of business as you were conducting your work at the office of

1 the Inspector General?

2 A. Yes.

3 Q. And are you familiar with the e-mail retention policies
4 at the Office of the Inspector General?

5 A. Yes.

6 Q. Okay. What are those policies?

7 A. I believe for e-mail, if they are an official record if
8 there's official act then it's indefinite, but normal every day
9 course of action e-mail is, I believe, it's -- I believe it's
10 two years of retention for e-mail.

11 Q. So there was a minimum -- you were aware that there was a
12 minimum of two year policy of OIG retaining any e-mail you sent
13 or was sent to you?

14 A. As far as I know, yes. And again, that was ten years
15 ago, but I remember there were policies about that, yes.

16 Q. And the same questions I just asked you apply to
17 Stephen Wilson, same thing, you e-mailed with him and he
18 e-mailed back to you in the course of your work?

19 A. Yes. In fact in Stephen Wilson since he was an SES all
20 of his e-mails had to be retained.

21 Q. All of them?

22 A. All of them.

23 Q. And did you have e-mail exchanges with the comptroller?

24 A. Yes.

25 Q. How about with Mr. Spivey or the people in the

1 acquisitions directorate?

2 A. Yes.

3 Q. And, again, other people within ISD. Mark Walker,
4 Brandon Williamson, did you e-mail with them?

5 A. Yes. Justin Perot to those. Yes.

6 Q. And, again, your same questions, you understood that
7 these were going to be retained. You sent them in the normal
8 course of your work and it had to do with your duties at ISD?

9 A. Yes. I knew they were going to be retained, absolutely.

10 Q. All right. So let's talk about the BRAC move. So we've
11 heard some about that, but you tell us what it was about from
12 your perspective. This is when 400 Army Navy Drive is now being
13 relocated over to the Mark Center?

14 A. Sure.

15 Q. All right. So when did you first learn that this was
16 going to happen, that you all were going to be moved into the
17 Mark Center?

18 A. Um, the -- the law, the BRAC law for BRAC 133, I believe
19 was some time in 2009, I think is when Congress passed that on
20 who was going, but we knew many years before that we were moving
21 to the Mark Center.

22 Q. And were you aware when your lease was expiring at
23 400 Army Navy Drive?

24 A. As we got closer, yes. I was in many meetings where I
25 knew that our lease was going to expire at the end of February.

1 Q. And were you -- in those meetings did you learn about any
2 penalties Office of the Inspector General might suffer if they
3 over stayed their lease?

4 A. Yes. There was discussion of penalties, and the price
5 was floated. I don't remember who said it, but it was --

6 Q. Without saying who said anything, what was your
7 understanding --

8 A. My understanding was that it was a million dollars a day
9 that was going to be penalized to the IG if we were past
10 February 28th.

11 Q. Now, who was responsible for making sure that the
12 information security directorate got -- was organized and got --
13 was moved into the Mark Center like on time?

14 A. Matthew.

15 Q. Matthew. And was there also a requirement, or was it
16 your understanding about how much downtime or off line time you
17 would be allotted after you moved to the Mark Center, before you
18 were up and doing your job again?

19 A. Zero. There -- there was zero downtime. We could not --
20 we have -- most of the folks that do the work of the Inspector
21 General's Office are out in the field not here in headquarters.
22 So we could not have any downtime, zero downtime during the
23 transition from 400 Army Navy Drive to the Mark Center.

24 Q. And was this a frequent topic at meetings?

25 A. Very frequent.

1 Q. How many meetings do you think, on average, do you think
2 you had a week or a month about ISD needing to be moved out on
3 time and ready to go when they got there?

4 A. On average per week -- I mean leading up it was every
5 day, but a year back it was at least twice a week. It came up
6 in every one of our staff meetings so that's once a week and
7 then we had specific meetings with its components about their
8 requirements at the Mark Center. So it was many, many times.

9 Q. A constant topic of conversation; is that fair?

10 A. Constant.

11 Q. Now, the office of the Inspector General as I understand
12 it investigates fraud or waste or abuse over the larger
13 Department of Defense; is that right?

14 A. Yes.

15 Q. Okay. Is there -- was it uncomfortable or was there
16 tension about the idea of now you in the Office of the Inspector
17 General sharing space and living quarters, for lack of a better
18 word, with the larger Department of Defense?

19 A. Yes. So if I could explain, so I had already done this
20 before at the pentagon when I worked for OUSD policy we were
21 taken over by another agency. So I knew when we were moving to
22 the Mark Center the issue was not people. The people -- the
23 people were going to move. We had space. That was already
24 allocated for them, the IG.

25 The issue was, and still is the IT perspective, because

1 all of our data, all of the investigative and audit data is --
2 is sensitive data. So we couldn't have our data -- we didn't
3 want our data on the same storage area network that the SAND,
4 which is like the cloud --

5 Q. Can I interrupt you for a second?

6 A. Yes.

7 Q. Try not to say things like, "SAND." Like, I need you
8 to --

9 A. Okay.

10 Q. -- because --

11 A. That's why I said, "Storage Area Network."

12 Q. Great. So what's a sand?

13 A. It's a bunch of drives. It's hard drive space.

14 Q. Okay. So start again. There was concern about sharing
15 server space?

16 A. There was concern about sharing server space with other
17 components. So very easily somebody could have mistakenly put
18 Judge O'Grady's computer inadvertently on to the IG's network
19 just by miss typing or typing a 1 instead of a 2. That machine
20 would then be on the IG's network which has access to all of the
21 data, or if somebody was malicious and was under investigation,
22 they could -- it's called, "SPAN the Port," which is mirror the
23 port of the IG and put a sniffer on to it and listen to all
24 e-mail exchange that was going on, on the network or all
25 traffic.

1 So it was a very big concern from IT perspective, it was
2 a very big concern that we did not want to go on to the shared
3 infrastructure, at the Mark Center, so the Mark Center was going
4 to take over our IT infrastructure.

5 **Q.** And how did -- was there initially a solution about not
6 sharing your data or moving your servers over to the
7 Mark Center?

8 **A.** So there was discussion about us moving some of our --
9 our -- our servers to Kansas City. Kansas City was our
10 continuity of operations, it was another data center that we had
11 that was being managed by the IG. That was one idea that we
12 floated by the leadership. And we could also look at an
13 off-site data center here in the Northern Virginia area that was
14 leased to us through the many data centers that are out in the
15 Dulles Corridor. So we could put our data in a non-DoD secure
16 data center, or we could move into the data center with the rest
17 of the folks and try and manage that through technology, through
18 encryptors.

19 **Q.** So you talked about the initial idea of just leasing
20 space or moving the servers somewhere else. Did
21 Matthew Steiniger ask you to go look at locations or come up
22 with possible solutions?

23 **A.** So Matthew tasked me with looking at locations in the
24 Northern Virginia area. So I visited 15 or 20 data centers in
25 the Northern Virginia and Maryland area looking to see how

1 secure they were, just if they met our requirements and our
2 requirements of security, physical security, their network
3 security, a bunch of technical stuff, and physical stuff. So,
4 yes, I visited many, many data centers in the area trying to
5 find a place that we could, as a -- as a plan B, put our stuff.

6 **Q.** Now, did the move take place all at one time or was the
7 move kind of done in stages?

8 **A.** It was in stages. The first move, once the Mark Center
9 was built and they were ready to start accepting tenants, we
10 were a tenant, we moved. We did what we call, "The flag pole
11 move," which is we moved all the nonessential folks, so the
12 support staff, the IT folks moved, the HR folks moved, folks
13 that -- that if someone didn't work, the impact on the mission
14 wouldn't necessarily affect it.

15 So A & M the administration and management, Stephen
16 Wilson's group, we moved first and then we had a phased approach
17 moving in DCIS, the auditors, the special planning and
18 operations, our Intel. So we all -- it all came in a phased
19 approach, yes.

20 **Q.** So you all moved but did the servers stay behind at 400
21 Army Navy Drive?

22 **A.** So on the initial flag pole move we moved, the servers
23 stayed behind and we leased a dark fiber between 400 Army Navy
24 Drive and Mark Center, so that we could start accessing our
25 data.

1 Q. But they remained there? They were not --

2 A. They remained at 400 Army Navy Drive until we made a
3 decision on what we were going to do.

4 Q. All right. And could you just briefly describe the size
5 of the servers and the server rooms and the server racks to give
6 the jury a sense of --

7 A. At 400 Army Navy Drive?

8 Q. Yes, sir. Give us a sense of what we're talking about?

9 A. I don't know the square foot, but Donnie's testimony
10 described the server room about half of size of this is probably
11 pretty accurate. It might be a little bit smaller, but the
12 racks, as he described it, he described them very well, they're
13 about 7 feet tall loaded with servers, and communication gear
14 and batteries.

15 I think -- there must have been 50 racks of equipment,
16 and that was just our main data center. And then we had a
17 classified data center that was on another floor that was half
18 the size of that, but again stacked with servers and coms eq- --
19 communications equipment.

20 Q. Now, after all of those servers were eventually -- at
21 some point they were going to be moved out of the 400 Army Navy
22 Drive. Was there also a responsibility to get the racks out,
23 get the cables out, you know, put it back into the -- into a
24 rentable, leasable condition --

25 A. -- Yes --

1 THE COURT REPORTER: I'm sorry, I couldn't hear you.

2 MR. AMOLSCH: Oh, I'm sorry.

3 BY MR. AMOLSCH:

4 Q. Was there a -- given all the cabling and the racks you
5 just talked about, was there a requirement from the landlord
6 that also the Inspector General reconditioned or put that space
7 back into the condition where they could then release the
8 building?

9 A. Yes. There was a requirement that came up later to -- we
10 called it "The Restoration" -- to restore Lerner. Lerner is
11 the -- was the lessor for 400 Army Navy Drive, and their
12 requirement was for us to return the building back to them in a
13 clean, leasable state which meant bringing -- removing all of
14 our equipment, removing all of our cabling, and just
15 reconditioning the -- the -- the building.

16 Q. And you said that was -- was a condition that the
17 Lerner's put on OIG like down the road? Like, I mean, what
18 month do you think this came up, July, August, March? When do
19 you think this was a --

20 A. Of when that information -- the information that I think
21 trickled down to myself later than that. I think it was like
22 December of 2011. It might have been a little bit earlier, but
23 I remember we were -- the flag pole move had already happened
24 when it came up that we needed to do this, and it -- it was a
25 panic. It was panic.

1 Q. It was a panic?

2 A. Beyond us already trying to figure out how we're going to
3 get all of our stuff in and us moving and working out of two
4 locations. It was a -- it was definitely a panic when we heard
5 that we had to return the building back to a condition that we
6 didn't plan for.

7 Q. But is this something any -- I mean, could this have been
8 planned for? I mean did you see -- did anybody see this coming?

9 A. Not that I know of.

10 Q. The -- now you said -- talked about the flag pole move.
11 Did you or Matthew or together go over to the Mark Center ahead
12 of time as part of this process to figure out, or try to figure
13 out what your equipment requirements would be once you arrived
14 in this new building?

15 A. Physically, I'm not sure if we physically went back and
16 forth. But we were in meetings often, I mean multiple times a
17 week with leadership from WHS, Washington Headquarters Services,
18 who were responsible for moving us into the building, the Army's
19 Information Technology agency, which was ITA. They were going
20 to be the ones who were going to maintain our equipment once we
21 moved. WHS was just going to move us and then leave, and ITA
22 was going to maintain us.

23 So we had to negotiate with both entities on what we were
24 going to do and how we were going to do it. If it was up to
25 them, we would just move like any other tenant and they would be

1 happy, but we had -- we had -- our -- our -- our foot down on --
2 on securing our data separate from the rest of the DoD data.

3 **Q.** Was the government also operating under a continuing
4 resolution during this time period?

5 **A.** So all of 2011 there was never a budget passed. So
6 leading up to this perfect storm that was happening, we had a
7 continuing resolution all 2011 and into 2012 where we had -- we
8 could not spend anymore money than we spent the previous year,
9 and we couldn't purchase anything that we didn't purchase the
10 year before.

11 So if we had purchased a plane in 2011, we could purchase
12 another plane in 2012. But we just couldn't -- because of the
13 continuing resolution, we couldn't buy anything new that we
14 didn't buy actually in 2010.

15 **Q.** And based on these meetings and your expertise, I mean
16 were you already aware of things you were going to need that you
17 couldn't buy once you arrived at the Mark Center?

18 **A.** Yes. So, for example, the Mark Center did not have a --
19 they didn't have a Blackberry server that they used. The Mark
20 Center uses DISA's, Defense Information Systems Agency, which is
21 the IT side of DoD. They used DISA's Blackberry servers for
22 their soldiers's Blackberries. We have our own, again because
23 of the secure communication that we do.

24 We needed to buy up a new bud- -- server -- Blackberry
25 server to put into the Mark Center, so there were definite

1 requirements that we had that we needed by moving it, yeah.

2 Q. Now, in the middle of all this is when you get asked to
3 start working on the WITS contract; is that right?

4 A. Yes.

5 Q. Does that happen around March of 2011? Does that sound
6 about right? It's been a long time?

7 A. About March of 2011.

8 Q. Now, who asked you to begin working with the WITS
9 contract?

10 A. Matthew Steiniger.

11 Q. Had you ever worked with any government contract before?

12 A. No.

13 Q. Had you ever received any government contracting at all
14 before?

15 A. No.

16 Q. Did you have any idea how WITS worked?

17 A. No. I didn't -- I didn't want to do WITS, that was
18 Tommy's -- Tommy did it.

19 Q. Okay. Well, we'll get to that in a second. But, and was
20 this job his responsibility that Matthew asked you -- Steiniger
21 asked you to take over, was this going to be an additional
22 responsibility on top of all the other things you were doing?

23 A. Yes.

24 Q. And you were beginning to say -- did you want to do this?

25 A. No.

1 Q. Okay.

2 A. I'm --

3 Q. Why'd you say, yeah?

4 A. Because I'm Tommy's boss. What had happened, Tommy took
5 a leave of absence because he had a baby. And so there was no
6 backup DAR to manage the WITS contract.

7 So when he returned, Tommy caught up on the stuff that we
8 did and didn't do, and he spoke -- he spoke to Matthew and there
9 needed to be a secondary DAR to back up Tommy.

10 Q. Now, did you ever receive any training on how to order
11 through the WITS contract?

12 A. No.

13 Q. Did you have any training on how not to order through the
14 WITS contract?

15 A. No.

16 Q. About what is allowed?

17 A. No.

18 Q. Not allowed?

19 A. No training.

20 Q. Fair opportunity requirements?

21 A. Didn't even know what it was.

22 Q. Okay. You saw the WITS contractor, Mr. Ron Capallia
23 describe the WITS contract, it's about the size of a phone book.
24 Did you ever try to review that on your own?

25 A. I don't believe I ever tried to, no.

1 Q. I mean is it --

2 A. I mean I have read it since.

3 Q. Okay.

4 A. And it's -- I'm glad I'm not a contracting officer. It's
5 very complicated.

6 Q. And you said that Tommy was a DAR. Was Matthew Steiniger
7 also a DAR?

8 A. He was a DAR. When he was the 14 before he was promoted
9 he was the DAR for the IG. And so Tommy and -- so Matthew was
10 the backup for Tommy. And when Tom- -- and when Matthew was a
11 GS-13 he was the DAR, so it -- the responsibility just kind of
12 trickled up as Matthew went up, it -- it -- it was just the way
13 I guess it had been done.

14 Q. So you had a DAR ahead of you and a DAR below you?

15 A. Yes.

16 Q. Did that give you some comfort that you were --

17 A. Yes.

18 Q. Tell me about that.

19 A. Well, I knew that Matthew was a trained DAR, that -- that
20 he had -- that he was a prior DAR for many years, and Tommy was
21 a DAR -- an active DAR. And so if, you know, those were my --
22 my rumble strips on either side of the road that if I were to do
23 something, fall asleep and get off the side of the road it would
24 bump me and get me back into the right lane.

25 Q. Is that the reason why you showed Mr. Steiniger every one

1 of the orders you submitted?

2 A. That was one of the reasons. The other reason was
3 because -- he was -- he was my boss, and again, I wasn't going
4 to spend money on anything without leadership knowing what we
5 were buying.

6 Q. All right.

7 A. But -- but -- but, I mean, I wouldn't just go and buy all
8 of a sudden Tandberg video equipment when we are Polycom,
9 without getting a buy in from my leadership on what we're doing.

10 Q. Do you know Tracy Hall?

11 A. Yes.

12 Q. Okay. Who is Tracy Hall?

13 A. Tracy Hall was a space manager.

14 Q. Was she married to Jeff Hall?

15 A. She was married to Jeff Hall, who was a help desk manager
16 in ISD.

17 Q. And do you also know Terry Peck?

18 A. Yes.

19 Q. James Ale {Phonetic}?

20 A. Yes.

21 Q. David Mulino {Phonetic}?

22 A. Yes.

23 Q. Marry Norris?

24 A. Yes.

25 Q. Elana Breathlaw {Phonetic}?

1 A. Yes.

2 Q. You're familiar with their e-mail addresses?

3 A. Yes, I am.

4 Q. You e-mailed them in the scope of your duties; they
5 e-mailed you in the scope of their duties?

6 A. Yes.

7 Q. I'm going to ask you to take a look at this. It's been
8 previously marked for admission as Defendant's Exhibit 15. If
9 you could take a look at this and tell me if you recognize it?

10 A. Yes, sir.

11 Q. Okay. I want to ask you some questions about what you
12 understood this e-mail to be telling you about how the Office of
13 the Inspector General had decide to pay to recondition the
14 server rooms and move the servers to Kansas City and --

15 A. Sure.

16 Q. Okay.

17 MR. AMOLSCH: Your Honor, then at this point I would like
18 to readmit or move to admit Defense's 15.

19 THE COURT: Any objection?

20 MR. CARLBERG: No objection, Your Honor.

21 THE COURT: All right. It's received.

22 (Defendant's Exhibit 15 admitted into the record.)

23 MR. AMOLSCH: Thank you, Your Honor.

24 BY MR. AMOLSCH:

25 Q. All right. Let's start at the bottom, Mr. Lumho.

1 All right. Do you see this Mr. Lumho?

2 A. Yes.

3 Q. During the May scheduling session with Gilbane, who is
4 Gilbane?

5 A. Gilbane was a subcontractor -- they were a contractor to
6 help us with the move to the Mark Center.

7 Q. It was said that the ISD was in the process of obtaining
8 a quote from a vendor regarding, "Cable abatement." Do you see
9 that?

10 A. Yes.

11 Q. And what did you understand cabling to be referring to?

12 A. The removal of cabling.

13 Q. Have you received the quote and was it for all four
14 facilities; CGN, Century, 400 Army Navy Drive, and EAD's? Those
15 were all four of the OIG facilities, right?

16 A. Yes. There was 400 Army Navy Drive -- Mark was our
17 headquarters. Crystal Gateway North, Century One, and EAD's
18 were our satellite offices.

19 Q. You also indicated the AV inventory had still not been
20 developed. What's that about?

21 A. So we weren't sure if we were going to move our old AV
22 stuff, which is -- that's referring to our telecommunications or
23 our video teleconferencing equipment, if we were going to move
24 the old 2004 AV stuff to the Mark Center, or if we were going to
25 buy new.

1 Q. And due to a lack of information about what equipment
2 would be located to the Mark Center, who would make that
3 decision?

4 A. That would be Matthew Steiniger.

5 Q. Matthew. And then there is an e-mail follow-up from
6 David Mulino, again asking what equipment is going to Kansas
7 City. Is that again your understanding of where this equipment
8 was going -- possible location?

9 A. Possible locations is Kansas City, right. That's where I
10 was describing either an off-site data center in Kansas City or
11 moving to the Mark Center.

12 Q. Was that David Mulino in this e-mail telling you that
13 they still haven't figured out where it's going?

14 A. Yes.

15 Q. And then the last e-mail up here is, "ISD will be
16 responsible for excising all equipment from all four
17 facilities."

18 A. Yes. We were responsible for accessing our equipment,
19 yes.

20 Q. Have you received the Statement of Work in quote from the
21 vendor for cable abatement, and has anyone been working on a
22 quote for the removal of the equipment? So what vendor do you
23 understand them to be talking about there?

24 A. At this time Tommy Carlyle was already talking with WITS
25 and Level 3 about the removal of equipment.

1 Q. Okay. And did you understand that, that quote would
2 involve cabling?

3 A. Yes.

4 Q. So when you saw or forwarded to Tommy Carlyle the WITS
5 order that said, "Cable installation." What did you understand
6 about whether that was an approved use of WITS?

7 A. I mean, it didn't shock me.

8 Q. I mean did it -- did it tell you -- did it tell you that,
9 that was an approved use of WITS as they have been discussing
10 it?

11 A. Yes, Tommy was the one involved in the order, yes.

12 Q. And ultimately, jumping ahead, but EAD's warehouse, CGN,
13 those were all paid for with a service order request form that
14 lists cabling as the contract line item number, is that -- do
15 you remember that?

16 A. Yeah.

17 MR. CARLBERG: Objection. I believe that misstates the
18 actual --

19 THE COURT: All right. Rephrase.

20 BY MR. AMOLSCH:

21 Q. Was cabling -- I'll move on. We'll get to that later.

22 Now, ultimately did some equipment get moved to Kansas
23 City?

24 A. Yes.

25 Q. And who did that work?

1 A. Um, I --

2 Q. Who drove the equipment out? Do you know who drove the
3 equipment out to Kansas City?

4 A. At the time I didn't know. I didn't care who drove it
5 out to Kansas City. But now in hindsight after all this data
6 that I received from the government, I do know who took the
7 stuff out to Kansas City.

8 Q. Who was that?

9 A. It was Donnie Ravas.

10 Q. Donnie Ravas.

11 Was -- did you -- did Mr. -- was Tony Jenks part of this
12 organization of the move from --

13 A. Yes.

14 Q. Did you see Tommy Jenks -- Anthony Jenks and Donnie Ravas
15 interacting?

16 A. Yes.

17 Q. Together as part of this move?

18 A. Yes. Like I said, the whole -- we were a very hands on
19 agency. There was a lot of micro management so there was no way
20 that things were happening without leadership and folks being
21 involved.

22 Q. You mentioned something called, "COOP." Is that
23 continent -- Continuity of Operation?

24 A. Yes.

25 Q. Okay. And just briefly if you can describe for the jury

1 what continuity of operations means?

2 **A.** COOP, for continuity of operations is essentially another
3 data center that's off-site that if your headquarters or your
4 main data center were to have catastrophic event, that your
5 offices would swing over and start using the other data center.
6 It was basically a COOP level 1 that is -- level 3 is just a
7 dead center that is sitting there with redundant data, and a hot
8 data center. Level 1 is a data center that's active and being
9 used. But both A and B are being utilized at the same time.

10 **Q.** All right.

11 **A.** Sorry.

12 **Q.** And just to finish that, the COOP is in Kansas City, the
13 Continuity of Operations Center?

14 **A.** At this time our COOP site was in Kansas City.

15 **Q.** All right.

16 **A.** DCIS office -- we had a DCIS in Kansas City and we had
17 rented space at the courthouse in Kansas City, Four Data Center,
18 500 State Street. I've been there many times.

19 **Q.** Let's jump ahead to October and talk about the Bridge
20 Contract?

21 **A.** Okay.

22 **Q.** All right. Now, in a nutshell, the way I understand it,
23 there's a company called EES that had the contract?

24 **A.** Yes.

25 **Q.** The contract was expired in GSA awarded it to a company

1 called Phacil?

2 A. Yes.

3 Q. EES protested GSA's decision?

4 A. Yes.

5 Q. And neither EES or Phacil could provide workers to ISD to
6 your directorate while the protest was going on?

7 A. Correct.

8 Q. All right. And that was a decision that came down from
9 the -- the General Council's Office?

10 A. I believe it was GSA that made that decision that we
11 couldn't have either the incumbent or the new awardee have any
12 employees there.

13 Q. And how much of your work -- ISD's workforce at this
14 point was contractors versus government employees?

15 A. In October of 2011, I want to say we had maybe 30 --
16 between 30 and 40 government employees and 80 contractors. The
17 majority of our workforce was done by contractors.

18 Q. Is it fair to say about half -- you lost close to half of
19 your contract employees as a result of this?

20 A. More than half, yes.

21 Q. More than half. Who took -- which agency took over the
22 responsibility for finding a solution to replace the workers who
23 had just been ordered off-site?

24 A. GSA.

25 Q. Um, and what -- is it fair to say that the contractors

1 that walked off or were ordered off, were IT specialists like
2 kind of specialized personnel?

3 A. Yes. They were -- they were -- they were in with each of
4 our divisions helping with -- yeah.

5 Q. And how critical was it for those replacement workers to
6 be found as soon as possible?

7 A. Mission critical.

8 Q. Still under a continuing resolution at this point?

9 A. Yes.

10 Q. Who made the decision to use the WITS contract to pay for
11 the replacement workers?

12 A. GSA.

13 Q. Did you have any part of that have decision?

14 A. Not in the decision, no.

15 Q. Okay. Did you make any suggestions about using WITS?

16 A. No.

17 Q. Okay. Did anybody ask your opinion about whether you
18 should use WITS?

19 A. Not my opinion, no.

20 Q. Are you familiar with the name Carmelo Nuestro?

21 A. Yes.

22 Q. Okay. And who do you understand Carmelo Nuestro to be?

23 A. Carmelo was the GSA representative from Region 9 in
24 California. He was the responsible contracting official that
25 was involved in the award and protest of the EES contract.

1 Q. Did you understand him to be the one running the show,
2 for lack of a better word?

3 A. Yes. The decisions were going to come from him. He was
4 the contracting officer.

5 Q. All right. And again, did you he e-mail at all with
6 Carmelo Nuestro, if you remember?

7 A. Yes.

8 Q. Okay. And again, in the course and scope of your duties?

9 A. Yes.

10 Q. And we've heard about the -- something called, "the
11 barebones".

12 A. Yes.

13 Q. Why don't you briefly describe to the jury what is meant
14 by, "barebones replacement".

15 A. So the barebones -- once the protest happened,
16 Willie Spivey wanted to -- he asked to whittle down the large
17 contracts since this was only going to be a bridge contract down
18 to just the essential things that we needed to keep the IG
19 running, keep the boat floating. So he asked to whittle down
20 our requirements to just the essential pieces.

21 Q. All right. And that's what's meant by barebones?

22 A. Yes. The barebones was just the minimum that we could
23 have.

24 Q. And who was responsible ultimately for choosing which
25 positions were barebones requirements and which positions were

1 not?

2 A. Matthew Steiniger.

3 Q. And was Matthew the one primarily coordinating with
4 Willie Spivey about this?

5 A. Yes.

6 MR. AMOLSCH: Okay. If I could bring up Government
7 Exhibit 152, please. It will appear on your monitor. Okay. If
8 we could go to the bottom of this, please, Ms. Sandvig.

9 All right. I'm sorry, the next page. And the next page,
10 and the next page.

11 BY MR. AMOLSCH:

12 Q. Okay. Let's focus on the first e-mail. This is an
13 e-mail that's sent from Willie Spivey to Matthew Steiniger,
14 Cristina Bucher; is it Butcher (phonetic) or Bucher?

15 A. It's Bucher.

16 Q. Bucher. Cristina Bucher, who is Cristina Bucher?

17 A. She was the GS-14 in charge of budget for the
18 comptroller's office.

19 Q. So she was in the comptroller office?

20 A. She was in the comptroller office.

21 Q. And Frank Bailey, who is Frank Bailey?

22 A. He was in the procurement shop. He was the chief of the
23 procurement shop. He was Willie Spivey's boss.

24 Q. Okay. He was Willie Spivey's boss. Okay.

25 So Willie's e-mailing his boss, the head of the

1 comptroller and the head of ISD, Matthew Steiniger, talking
2 about, you know, a poss- -- the protest and the barebones
3 required to support ISD, right? While this was going on?

4 A. Yes.

5 Q. You then also mention we're under a CR. Does that mean,
6 "Continuing Resolution?"

7 A. Yes.

8 Q. Okay. And it says he's attached -- he's not -- are you
9 copied on this e-mail?

10 A. No, I'm not.

11 Q. No. Okay. So this didn't come to you. And Willie
12 Spivey says, "There's a spreadsheet that's attached," right?

13 A. Correct.

14 Q. Okay. And then we go to the next e-mail. Matthew then
15 responds, "Requested information attached, I don't feel a
16 hundred percent comfortable." Did you understand him to be
17 saying he actually wanted more --

18 A. Yes. So barebones was -- that was a tough thing to try
19 and figure out what was most essential.

20 Q. Okay. And do you see anything in there about pricing
21 information or anything about what related to money?

22 A. No.

23 Q. Okay. What did you understand the attachment to be?

24 A. The barebone descriptions.

25 Q. Just the descriptions of the people that --

1 A. Yes.

2 Q. ISD needed to --

3 A. Yes.

4 Q. Okay. And then we can go all the way to the top of this
5 e-mail chain. Okay. And then he sends that to you.

6 MR. AMOLSCH: Is that the top of that e-mail, Ms.

7 Sandvig? Okay.

8 BY MR. AMOLSCH:

9 Q. And then he asks you to weigh in. Okay. So let's go
10 to -- I'll show you some things.

11 The next e-mail I want to ask you about, Mr. Lumho, is --
12 after you got this barebones -- the e-mail from
13 Matthew Steiniger, did you have any conversations with him about
14 finding the employees to satisfy ISD's immediate needs, and
15 where those employees would come from?

16 A. Did I have a conversation with him?

17 Q. Yes.

18 A. Yes.

19 Q. Okay. Did you have e-mails -- did you have e-mails --
20 did you e-mail with him about this?

21 A. I would imagine I did, yes.

22 Q. Take a look at this and let me know if you recognize
23 this?

24 MR. AMOLSCH: This is going to be Defense's 37, Your
25 Honor.

1 THE COURT: Okay.

2 MR. AMOLSCH: Oh, I'm sorry. Thank you, sir.

3 BY MR. AMOLSCH:

4 Q. Okay. Do you recognize -- do you see that e-mail?

5 A. Yes.

6 Q. Do you recognize that?

7 A. I do.

8 Q. All right. It was sent to you in the scope and course of
9 your duties?

10 A. Yes, it was.

11 Q. Okay. I want to ask you some questions about how you
12 understood the IT personnel were going to be provided to replace
13 the replacement workers. Okay?

14 A. Sure.

15 MR. AMOLSCH: All right. Your Honor, at this point I move
16 Defense's 37 in.

17 THE COURT: Any objection?

18 MR. CARLBERG: No, sir.

19 THE COURT: It's received.

20 (Defendant's Exhibit 37 admitted into the record.)

21 MR. AMOLSCH: Thank you, Your Honor.

22 BY MR. AMOLSCH:

23 Q. First e-mail is from Willie Spivey to Stephen Wilson and
24 Matthew Steiniger. You're copied at the top of this, at the
25 top, but I want to -- but you got the whole e-mail, so I want to

1 ask you about your understanding.

2 Now, this is dated October 6th, 2011, is the e-mail from
3 Willie Spivey to Matthew Steiniger and Marry Norris.

4 This is one day after the protest has happened, right?

5 A. Yes.

6 Q. Okay. And Willie Spivey writes, as it relates to the IT
7 contract, "Current contract is under protest. To support the
8 immediate requirements, GSA, in parentheses, Region 9, will
9 award a bridge contract utilizing the GSA WITS3 contract."

10 So what did you understand at this point about what GSA's
11 decision was about which contract they were going to use to pay
12 for these replacement workers?

13 A. It says they're going to use -- GSA -- is going to use
14 the WITS3 contract.

15 Q. And was that your understanding?

16 A. Yes.

17 Q. Okay. Matthew then forwards it to you, and also to
18 Ricardo Farrerah. Who is Ricardo Farrerah?

19 A. He was a -- he was the chief of customer support.

20 Q. Steve McKinney?

21 A. He was the chief of information security.

22 Q. Lyle Raznick?

23 A. He was the chief of server integration.

24 Q. Brandon Williamson?

25 A. He was the chief of operations -- business operations.

1 Q. Winoda Mathis?

2 A. She was an acquisitions person under Brandon.

3 Q. Okay. So it's your understanding that
4 Matthew Steiniger's informing the people at the top who need to
5 know how the process is proceeding?

6 A. Yes.

7 Q. Okay. He writes, "All," including you, "FYI, WITS will
8 be used as a bridge for IT support. Currently we estimate
9 having people starting back on board no later than Wednesday."
10 So that would be within five days; is that correct?

11 A. Yes.

12 Q. Okay. He then writes, "Level 3, (within parenthesis, the
13 contractor under WITS) is aware of our requirements and is
14 already starting to coordinate this action."

15 What did you understand that e-mail to mean about which
16 company GSA was going to rely on to provide the WITS workers?

17 A. Matthew said that it was going to be Level 3.

18 Q. All right. And is that your understanding that on
19 October 7th, it had already been decided?

20 A. Yes.

21 Q. Okay. Was there any confusion about that?

22 A. No, it was pretty plain English.

23 Q. And did you then proceed with your task of helping
24 coordinate the IT workers as if this contract was already
25 decided to be awarded to Level 3?

1 **A.** Yes, I did.

2 MR. AMOLSCH: Court's indulgence.

3 THE COURT: Yes, sir.

4 BY MR. AMOLSCH:

5 **Q.** And it says, "Level 3 is aware of our requirements and
6 are already starting to coordinate this action." Had you made
7 Level 3 require- -- aware of your requirements?

8 **A.** No, I hadn't.

9 **Q.** Okay. Do you know who had made Level 3 already at this
10 point aware of ISD's requirements?

11 **A.** Well, Matthew wrote that. So I would assumed it was
12 Matthew.

13 **Q.** But it wasn't you?

14 **A.** It was not me, no.

15 **Q.** And then let me ask you about another e-mail, Mr. Lumho.

16 MR. AMOLSCH: I don't believe this is in, Your Honor.

17 Thank you, sir.

18 THE WITNESS: Thank you.

19 BY MR. AMOLSCH:

20 **Q.** Do you recognize that e-mail?

21 **A.** Yes.

22 **Q.** Is that sent to your e-mail address from Willie Spivey?

23 **A.** Yes, it is.

24 **Q.** I want to ask you some questions about what you
25 understood GSA's decision to be about Level 3.

1 THE WITNESS: Is this already in?

2 MR. AMOLSCH: Yes. Your Honor, I move to admit Defense's
3 38.

4 THE COURT: Any objection?

5 MR. CARLBERG: No, sir.

6 THE COURT: It's received.

7 (Defendant's Exhibit 38 admitted into the record.)

8 BY MR. AMOLSCH:

9 Q. This is an e-mail from Willie Spivey to you, right, and
10 Carmelo Nuestro. And Carmelo Nuestro is who?

11 A. He is the GSA contracting officer.

12 Q. It's an e-mail to you, "Kekoa, GSA Region 9 called me and
13 informed me that Level 3 indicated it would be next week before
14 you receive support."

15 So what was your understanding after reading this about
16 whether GSA had decided on October 11th that Level 3 would be
17 providing the workers pursuant to the bridge contract?

18 A. It says it right there in plain English that --

19 Q. Okay. What was your understanding of it?

20 A. That GSA was going to give it to Level 3.

21 Q. So on October 11th, and this is of course before any bid
22 had gone out, correct?

23 A. Yes.

24 Q. There's been no request for a quotation issued by GSA?

25 THE COURT REPORTER: I'm sorry, can you ask that again?

1 BY MR. AMOLSCH:

2 Q. There's been no official request submitted by GSA to
3 fulfill the requirements of the bridge contract?

4 A. Not that I was aware of, no.

5 Q. Do you know when that actual -- that request for bid
6 actually went out?

7 A. October 25th, I believe.

8 Q. So this is about two weeks before any of that happens.
9 GSA is telling you Level 3 has indicated, "It will be next week
10 when you all receive your support?"

11 A. Yes.

12 Q. And that's what you understood was going to happen?

13 A. Yes.

14 Q. Now, you e-mailed Ron Capallia a list of -- you forwarded
15 the e-mail as we saw in Government's Exhibit 152?

16 A. Yes.

17 Q. A list of the requ- -- of the bare -- of the positions
18 that Matthew Steiniger wanted filled. You forwarded it to
19 Ron Capallia?

20 A. Correct.

21 Q. And where does Ron Capallia work?

22 A. Level 3.

23 Q. And why did you forward -- just forward it to Level 3, as
24 it relates to needing support for the WITS -- for the bridge
25 contract through WITS?

1 **A.** They were going to be the ones fulfilling the needs, so
2 they -- they needed to know which positions to fulfill.

3 **Q.** Did you intend to give Level 3 any advantage by sending
4 that e-mail to Ron Capallia before Level 3 had even put out the
5 bid for --

6 **A.** No.

7 **Q.** Okay. Let's talk about briefly the level of support you
8 received from Level 3. Did Level 3 subcontract that work out?

9 **A.** They did.

10 **Q.** Okay. And was that to Mr. Wilson's company, MSO?

11 **A.** Yes.

12 **Q.** Okay. How would you describe the support? Was it good,
13 bad?

14 **A.** It was awesome. It was outstanding.

15 **Q.** Do you think they provided a positive value to the
16 government?

17 **A.** Very much so, yes. They were very, very highly qualified
18 engineers that were hired.

19 **Q.** Were they already actually on site providing other IT
20 support services?

21 **A.** There was. I believe there were four -- there were four
22 Level 3 folks, MSO folks that were already on site. From
23 earlier on in 2011 we had a -- we had an issue where our -- we
24 almost got kicked off of the Internet -- off of the gig, which
25 is called -- it's called the, "gig."

1 DoD came in and did an inspection of our infrastructure
2 which they do randomly. And when they came and did that,
3 they -- It's called a, "Red Team," came in and they -- and they
4 tried to infiltrate our environment. They were successful.
5 Many of the servers had been patched for over a year, and so we
6 were at risk of losing our connection to the DoD because we were
7 then a vulnerable component of the DoD's infrastructure.

8 So, um -- so -- so, Matthew got Level 3 through WITS to
9 provide patching -- patching engineers that came in and they
10 patched all of our servers, all of our PCs up to the current
11 patch and they did it fairly quickly. I think it was three
12 weeks they patched everything.

13 And then had the computer network defense team, the CNDSP
14 team come and do another red team and we passed, but because of
15 these Level 3 folks that came, we were able to maintain our
16 posture.

17 Q. Do you feel like ISD had an ongoing relationship with
18 Level 3?

19 A. I felt like we did.

20 Q. All right. Did you have any input at all into Level 3
21 ultimately subcontracting out any work out to Mr. Wilson's
22 company?

23 A. No. I -- I could care less where it came from.

24 Q. I'm sorry, say that again?

25 A. I could care less where that came from. The folks that

1 they gave us were very qualified, over-qualified in some
2 instances. If they came from Level 3, great, if they came from
3 MSO, it didn't matter to me. It didn't matter to any of us. We
4 just were happy to get support and get folks that came in
5 already knowing how to do things and not having to be trained on
6 how to do stuff.

7 MR. AMOLSCH: Your Honor, I'm about to transition into
8 another area, do you want me to continue on or do you want to
9 take a morning break.

10 THE COURT: Ready for a break? Okay. All right. Let's
11 take our morning break.

12 MR. AMOLSCH: Thank you, Your Honor.

13 THE COURT: Let's take 15 minutes and we'll continue with
14 the testimony. You're excused. Thank you.

15 (Jury out at 11:03 a.m.)

16 THE COURT: All right. Anything before we break?

17 MR. AMOLSCH: No, Your Honor. Thank you.

18 THE COURT: You're in the middle of your testimony, so
19 don't discuss the testimony or talk with anyone while we're in
20 the recess, all right, sir.

21 THE WITNESS: Yes, sir.

22 THE COURT: All right. We're in recess.

23 (Thereupon, a recess in the proceedings occurred from
24 11:04 a.m. until 11:24 a.m.)

25 THE COURT: All right. Anything before we get the jury?

1 MR. AMOLSCH: No, sir.

2 THE COURT: Okay. Ira, let's get our jury, please.

3 (Jury in at 11:25 a.m.)

4 THE COURT: Please be seated. And Mr. Amolsch, continue,
5 sir.

6 MR. AMOLSCH: Thank you, Your Honor. May it please the
7 Court. Good after- -- morning again, Mr. Lumho.

8 THE WITNESS: Morning.

9 BY MR. AMOLSCH:

10 Q. Let's move out of the bridge contract award to Level 3
11 and to the ultimate move that took place the end of January
12 2012, the last part of the move from the 400 Army Navy Drive
13 over to the Mark Center?

14 A. Okay.

15 Q. Had you talked with Matthew Steiniger about using the
16 WITS contract to pay for removing the servers, cleaning up the
17 server room, and completing the move to the Mark Center?

18 A. Yes.

19 Q. Okay. Did he tell you that GSA had approved using WITS
20 for this purpose?

21 A. He did.

22 Q. Did he tell you that Mr. Wilson his boss had approved
23 using WITS for this purpose?

24 A. Yes.

25 Q. Did he tell you that the Office of the General Council

1 approved the use of WITS for this?

2 A. Yes, he did.

3 Q. How about Mr. Spivey? Did he tell you Mr. Spivey
4 approved --

5 MR. CARLBERG: Your Honor, this is extremely leading.

6 MR. AMOLSCH: I apologize.

7 THE COURT: It's all leading.

8 MR. AMOLSCH: I'm sorry.

9 THE WITNESS: He told me that a lot of people had approved
10 it.

11 MR. AMOLSCH: I'm sorry, I was just trying to move along.
12 Thank you, Your Honor.

13 BY MR. AMOLSCH:

14 Q. Based on those discussions, what was your understanding
15 about whether it was okay to use WITS for the move?

16 A. We were going to use WITS. That was my understanding.

17 Q. Based on your conversations with Mr. Steiniger, was he
18 aware of the costs that would be associated --

19 A. Yes.

20 Q. -- with the move?

21 A. Yes.

22 MR. AMOLSCH: Can I ask for Defense's Exhibit 17.

23 This is one of the exhibits, Your Honor, that was
24 admitted last night.

25 THE COURT: All right.

1 MR. CARLBERG: Which one?

2 MR. AMOLSCH: I'm sorry, 17.

3 MR. CARLBERG: Thank you.

4 MR. AMOLSCH: I'm sorry.

5 BY MR. AMOLSCH:

6 Q. Okay. Mr. Lumho, I'm going to show you this part of the
7 conversation to begin with just to set the stage. January 23rd
8 2012, Matthew is writing to you, "Kekoa, what's the hold up,
9 who's acting for you?" Do you remember this e-mail?

10 A. Yes, I do.

11 Q. Okay. What is Matthew asking you there?

12 A. He was referring to the 400 Army Navy Drive clean out and
13 when it was going to get signed and approved or -- signed to
14 begin the work. I sensed his frustration there.

15 Q. And you respond with, "Tommy's acting for me while I'm
16 out." Where were you at this point?

17 A. Can you move it up a little bit more so I can see the
18 rest of it?

19 Q. I'm sorry, my mistake. It says, "Tommy is acting for me
20 while I'm out."

21 A. I was in South Korea at the time.

22 Q. So is that why you are -- is that why Tommy is acting in
23 your stead?

24 A. Yes.

25 Q. Okay. And then we have this e-mail to him, "Please tell

1 me you submitted the request to WITS3 for the 400 Army Navy
2 Drive server room effort."

3 What did you understand him to be asking you there?

4 A. He's telling me -- asking me if I submitted the request
5 for the WITS3 400 Army Navy Drive server room clean out.

6 Q. And did you understand that Matthew had already requested
7 funds for this -- specifically for this purpose?

8 A. Absolutely. Again, we wouldn't -- we wouldn't spend any
9 money without the comptroller knowing.

10 Q. And do you remember who you requested those funds from?

11 A. I believe it was Jennifer Paper.

12 MR. AMOLSCH: Could we bring up Government 76B?

13 BY MR. AMOLSCH:

14 Q. And is this the quote that he's waiting for?

15 A. Yes, it is.

16 MR. AMOLSCH: Okay. Could we bring up Government
17 Exhibit --

18 MR. CARLBERG: Objection. This is not a quote.

19 MR. AMOLSCH: Oh, I'm sorry.

20 THE WITNESS: This is a service order request --

21 MR. AMOLSCH: -- service order request form. My mistake.

22 THE COURT: All right.

23 MR. AMOLSCH: Can we bring up Government's Exhibit 162?

24 BY MR. AMOLSCH:

25 Q. All right. Do you remember this e-mail chain, Mr. Lumho?

1 A. Yes, sir.

2 Q. Okay. This is -- if we can go to the bottom of the
3 e-mail, this is Ron Capallia sending you over the service order
4 and task -- Statement of Work and task order for the Army Navy
5 clean out, correct?

6 A. Yes, it is.

7 Q. Is there a three pa- -- is there a Statement of Work
8 attached to this? Do you remember?

9 A. I believe there was, yes.

10 Q. Okay. And is that the Statement of Work describing --

11 A. The work being done.

12 Q. -- that's going to be done?

13 A. Correct.

14 Q. And then if we go up, I'm sorry, back, you then forward
15 this to Tommy, "Please sign and send to me, please."

16 A. Yes, it was --

17 Q. Why did you -- why did you ask Tommy to sign it and send
18 it?

19 A. Because it was sent to me, and I was in Korea, so I
20 didn't have the ability to -- I probably sent this from my
21 Blackberry, so I didn't have the ability to sign and then either
22 scan and get it back to Ron. I was TDY.

23 Q. And you were "TDY." What does TDY mean?

24 A. Temporary duty.

25 Q. Okay. And did you have an understanding about Tommy's

1 role in getting the work from Level 3 to complete the move and
2 clean out?

3 A. So Tommy was in charge of the clean out of 400 Army Navy
4 Drive. He was -- from my division, he was the representative
5 for this effort. So he was very aware of what it was, so when I
6 forwarded it to him, there was no issue. I didn't have to
7 explain to him what it was or anything. He knew what it was.

8 Q. All right. And can we go to the very top? "And TDY in
9 South Korea, What is going on? This is much higher than I
10 originally thought it was going to be, significantly higher."
11 Why did you find the price that was being quoted now higher than
12 what you were expecting?

13 A. Um, why was it significantly higher?

14 Q. Yes. I mean, why were you expecting --

15 A. -- we had -- we had already budgeted --

16 THE COURT REPORTER: I'm sorry. One at a time.

17 THE WITNESS: I'm sorry.

18 BY MR. AMOLSCH:

19 Q. Why did you expect the price to be lower than the quote?

20 A. Because based off of the walk-through that Tommy had done
21 with the folks, the price quote that we got back was, I believe
22 it was \$300,000.

23 Q. And is that why Mr. Steiniger was requesting \$300,000?

24 A. From Jennifer Paper, correct. Yes.

25 Q. Okay. Because that was the number that everybody was

1 expecting?

2 A. That was the number we were expecting.

3 Q. All right. Do you know why the price went up?

4 A. Because when we did the walk through with Tracy hall of
5 the buildings, the scope of work changed from not just doing the
6 data centers but now we had to go through and rip out the
7 cabling of the rest of the floors, not just the data center. So
8 we had to remove all the cabling from 400 Army Navy Drive to
9 include the risers in the ceiling, the telco closets that are
10 between each floor where all the fiber goes. So all that had to
11 get removed.

12 Q. All right. And this was -- did this -- when was this
13 requirement made known to Office of the Inspector General, in
14 January?

15 A. It was mid-January, yes.

16 Q. And was there a decision made to just pay for that as
17 well?

18 A. Yes.

19 Q. Okay. And what was the -- how were they going to pay for
20 that?

21 A. Through WITS.

22 MR. AMOLSCH: If I can see what's previously been
23 admitted as Defense's 18.

24 BY MR. AMOLSCH:

25 Q. This is again same date and time, "Kekoa, attached is the

1 task order for --"

2 A. Yes.

3 Q. Okay. Then -- you then, again, say, "Tommy is to sign
4 this and return this in the morning"?

5 A. Correct.

6 Q. And you were also -- above that is Matthew Steiniger
7 replying to Jennifer Paper about the quote coming in
8 significantly higher.

9 Now, based on your knowledge of how the e-mail system
10 worked at the Office of the Inspector General, was this
11 attachment included in the e-mail that you sent Mr. Steiniger?

12 A. Um, so, if you could move down --

13 Q. Sure.

14 A. Farther. He -- well, so if you go to the first page
15 where Ron Capallia sent it to me --

16 Q. Hold on. Let me get there. Okay.

17 A. So he -- I received the attachment, and I forwarded the
18 e-mail, so when you forward an e-mail, it attaches the
19 attachment to the e-mail. If you respond to an e-mail, the
20 attachment is then removed from the e-mail so you don't send the
21 same attachment on every single response back, but whenever you
22 forward an e-mail, the attachment is attached. So as you can
23 see, I forward- -- on the bottom part I forwarded to
24 Matthew Steiniger so the attachment is there. He forwards it to
25 Jennifer Paper. The attachment is there. And then she responds

1 as you see, "Subject, RE semicolon -- colon OIG 400." That's
2 her response, so at that point the attachment is then removed
3 from the e-mail chain and there's no longer an attachment. So
4 up to the point where Matthew forwards it to Jennifer Paper the
5 attachment is still there.

6 Q. So Matthew Steiniger -- you forwarded the service order
7 request form and the Statement of Work to Matthew Steiniger for
8 his review?

9 A. Yes, and he then forwards it for her to review.

10 Q. Okay. He writes, "This quote came in significantly
11 higher." What does that tell you about whether he reviewed the
12 service order request form?

13 A. That tells me that Matthew is reviewing.

14 MR. CARLBERG: Okay. Personal knowledge, lack of personal
15 knowledge.

16 MR. AMOLSCH: His understanding, Your Honor.

17 THE COURT: All right. I'll allow it.

18 BY MR. AMOLSCH:

19 Q. Based on -- based on this, what is your understanding
20 about whether --

21 A. That Matthew was aware of everything that's going on. He
22 reviewed and is now asking for more money from Jennifer Paper
23 because of the increase in cost. So he was very aware of what
24 was going on with this -- this ordeal.

25 Q. And do you see at the top where Jennifer says, "Yes,

1 proceed, Matthew"?

2 A. Yes. It says, "Yes, please proceed, and I know we just
3 spoke about it but this has been coordinated through Marry and
4 Leslie." So they had already been speaking about it.

5 Q. And -- I'm sorry, go ahead. And the FYI?

6 A. And then he forwards it to me FYI just letting me know,
7 hey, the money was approved, but to go ahead and proceed with
8 this.

9 Q. Based on this e-mail, can you tell the ladies and
10 gentlemen of the jury, did you feel like you had authority to
11 use -- to be part of the process of securing work from the
12 Office of the Inspector General for the Office of the Inspector
13 General from Level 3 for the move from 400 Army Navy Drive over
14 to the Mark Center?

15 A. So, again, if I used my rumble strips analogy, Matthew is
16 on one side and Tommy is on the other side, and Tommy signed it.
17 He's a trained DAR. And Matthew Steiniger is my boss who is a
18 trained DAR. He told me to proceed, so my understanding was
19 proceed.

20 Q. Okay. And was this -- and again, was this an unusual
21 course of conduct or is this how it always worked?

22 A. Everything we did was a coordinated effort. Everything,
23 not just this. Anything we did, there was a lot of planning,
24 processing. I mean those -- things didn't happen really, really
25 quick at the IG.

1 Q. All right. Now, did Level 3, if you're aware, do the
2 work themselves or did they subcontract out the work?

3 A. I am not aware of the work -- this was Tommy's project,
4 so I didn't hear any complaints. So if the work was done, we
5 were out of the -- of the -- of the 400 Army Navy Drive by the
6 end of February. So, yes. The work got done.

7 Q. Did you make any requests to anybody at Level 3 that
8 Mr. Wilson receive any subcontracted work for this work?

9 A. I didn't care who did it.

10 Q. Sorry, say that again.

11 A. I didn't care who did it.

12 MR. AMOLSCH: If I could see Defense's 16.

13 BY MR. AMOLSCH:

14 Q. Mr. Lumho, this is, again, did there come a time when the
15 rest of EAD's, Century, the other locations were moved over to
16 Army Navy Drive?

17 A. Yes. That's what we call phase two of the reconditioning
18 of the spaces that we had vacated, the buildings we had vacated.

19 Q. All right. And is Jennifer Paper here asking you about
20 the money associated with those moves?

21 A. Yes, she is.

22 Q. Okay. And she says, "I know 442,000 was 400 Army Navy
23 Drive." What does that tell you about whether she was aware of
24 how the money -- how that move was paid for?

25 A. She knew that it was paid through WITS.

1 Q. And 800,000 -- I'm sorry, 80,000 for CGN. What's your
2 understanding of that?

3 A. That she knew we had spent \$80,000 on CGN, EAD's, and
4 everything else. Again, this was coordinated even before we
5 signed the service order request form.

6 Q. Do you know who did the work moving CGN, Century, and
7 EAD's over to the ware- -- out of their locations?

8 A. So I'll -- I'll clarify what I had said before. So at
9 the time, in my state of mind and where I was that time, I had
10 no idea. I do know now and after reviewing all the millions of
11 documents I've reviewed and testimony here who did the work.
12 So --

13 Q. Did you know who did the work for Century, Army Navy
14 Drive and EAD's at that time?

15 A. No, I did not.

16 Q. Did you make any request that Mr. Wilson be included in
17 that project?

18 A. No.

19 Q. All right. So after you all arrive, did you continue to
20 participate in weekly meetings or monthly meetings or meetings
21 of any frequency about the IT needs of the Office of the
22 Inspector General, once you had arrived at the Mark Center?

23 A. Yes. So once we arrived at the Mark Center, we had a
24 constant turn of meetings. There was -- we had -- we were
25 obviously involved in IT meetings with WHS and ITA concerning

1 how we were going to finish and get the rest of our stuff over.

2 But we, at the same time had -- Stephen Wilson had
3 neighborhood meetings where we would go and have a
4 representative from IT go and meet with our components to find
5 out how the move was and what other needs they need or what
6 expectations were. So there was -- it was a good three months,
7 four months of nothing but BRAC.

8 Q. As a result of those meetings, did it become apparent, or
9 tell me as a result of those meetings, did you all discover that
10 there were IT needs that needed to be solved?

11 A. There were -- Yes. There were a lot. So once we decided
12 to move -- if we could back up real quick. Once we decided that
13 the decision was made by the IG that we were going to co-locate
14 our equipment and our data on the ITA and WHS's system, we had
15 to figure out how to make that work. So the IG made the
16 decision. Now, it came down to us to figure out how to safely,
17 securely have our data on the WHS equipment.

18 Q. Were there other IT needs that were unrelated to data
19 management but that were needed in order for OIG to complete
20 this mission?

21 A. Yes. So I was getting there. So once we figured out the
22 whole data part, we had to deal with the extra components that
23 we didn't have that WHS did not have to support us.

24 For example, the Blackberry -- the Blackberry enterprise
25 server, the Bud server, our Polycom VTC system. WHS has

1 Tandberg systems, we don't use Tandberg we use Polycom. At the
2 time they didn't speak to each other, so we had to have our own
3 VTC system servers.

4 Q. What does VTC stand for?

5 A. Video teleconferencing.

6 Q. Okay.

7 A. So we had to purchase new servers for the Mark Center.
8 We also had a decision on whether or not we were going to
9 continue with the Kansas City COOP site we had, which was a tier
10 3, it was only a backup of our data, or if we were going to use
11 the defense continuity Internet network, which was the DCIN
12 network, which was a robust multiple phase dark fiber up to a
13 secure location outside of the Washington, D.C. area. And
14 whether we were going to utilize their system, which was a much
15 better, much better fit for us.

16 And it was one of the big advantage of us co-locating at
17 the Mark Center data wise, was we would have access to their
18 robust COOP so we could then --

19 Q. Continuity of operations?

20 A. Continuity of operations.

21 Q. Who would have directed the purchase of the equipment for
22 the Office of the Inspector General, the IT equipment?

23 A. Matthew Steiniger.

24 Q. Did you have an understanding about how -- about whether
25 you were encouraged to use WITS to solve these problems?

1 **A.** Encourage is a -- isn't an accurate way. I was -- I
2 think the whole directorate, including Stephen Wilson, utilized
3 WITS or wanted to utilize WITS to the most of their ability
4 because it was a quick and easy way to get equipment and
5 services that we need. And the comptroller was happy that money
6 was being spent and not having to wait months for funding to get
7 ready.

8 **Q.** Let's slow down on that. So you said the contract --
9 compo was happy that money was being spent through WITS, what
10 does that mean?

11 **A.** Again, we're in a continuity -- continuing resolution
12 until, I believe it was signed -- Congress signed it in at the
13 end of December, which means that then that released the money
14 for us to then start spending money.

15 So that takes weeks and months for the money to actually
16 be released for us to actually start spending the money. And
17 then once the money is available to be spent, that's when
18 Willie Spivey's group starts going through the contract process
19 with GSA to spend money.

20 From the comp- -- from the comptroller's perspective or
21 from a comptrol- -- from -- from a spending, they have to have
22 their procurements closed out and money spent by a certain date.

23 And every year at the end of the FY, everybody scrambles
24 to spend the money that the comptroller has and the comptroller
25 gets on everybody, hey, we need to spend this money. And WITS

1 was chewing off the money so they're happy money was being taken
2 off of their books, out of the O and M fund, operation of
3 management fund.

4 Q. How would you describe the ordering process from the
5 point of view of you receiving a request from a component to
6 purchase equipment, to ultimately that equipment being purchased
7 through WITS? Was it formal, informal? How would you describe
8 it?

9 A. I would describe it as informal.

10 Q. Okay. And why would you say that?

11 A. Um, I would get -- so, again, we had weekly meetings
12 within ISD. And in those weekly meetings one of the division
13 chiefs would express a need for backup tapes or -- or something
14 that failed, and we needed to purchase something.

15 For example, I'll use backup tapes as one of the
16 purchases. We needed to get backup tapes. The agency had run
17 out of backup tapes. If you see kind of a -- our server team
18 didn't do a very good job of maintaining their systems, so we
19 ran out of backup tapes. They needed backup tapes.

20 We're in a staff meeting and the discussion was, "How do
21 we get backup tapes? We need them now. We had a big failure."
22 And always, it always looked at me at, "Can we get it off WITS?"
23 And I would always, "Let me check." And I'd reach out to Ron,
24 and Ron would send me back a service order request form. And I
25 would take that form, and I would show it to Matthew. "Matthew,

1 can we get it?" "Yes, we can. Let's go talk to the
2 comptroller." So then we would go talk to the comptroller's
3 office. "Do we have money?" "We have money. Sign the service
4 order request form." Sign the form, and the rest is history.
5 Now, that was within ISD.

6 And then there were times where DCIS would come to me and
7 say, "Hey, we need switches and routers for our internal -- I
8 forgot what it was called, but they had an internal network for
9 forensics, a forensics network. "How can we get it?" Matthew
10 says, "We can use WITS." Okay. "Well, let's use WITS." And so
11 it was -- it was the umbrella of our procurements for that year.

12 Q. Now, you're talking about Ron sending, Ron Capallia from
13 Level 3, sending you a service order request form. Did you ever
14 fill one of those forms out?

15 A. I don't know how to. No, I didn't.

16 Q. You don't know how --

17 A. I mean, I have access to it. No.

18 Q. Okay. Did you have any input into the price associated
19 for the goods or services that were provided to you? Did that
20 come from Ron?

21 A. That came from Ron.

22 Q. Did you ever have any input into the selection of which
23 CLIN, or contract line item number was used?

24 A. No.

25 Q. Okay. That was all done by Ron?

1 **A.** Yep.

2 **Q.** Did you ever ask Ron, when you saw service order request
3 form and contract line item number, would say, LAN/WAN
4 integrator, and you would be getting something that wasn't a
5 LAN/WAN integrator? Did you have a conversation with him about
6 how that would work?

7 **A.** I did.

8 **Q.** Okay.

9 **A.** In fact Matthew Steiniger and I both did. We -- we had a
10 conversation --

11 **Q.** I need you -- come step closer.

12 **A.** Okay. I'll talk slowly.

13 **Q.** Okay. So you said -- I asked the question was, did you
14 ever ask Ron about the in consist -- the internal
15 inconsistencies between what was being ordered and the contract
16 line item number on the service order request form that Ron sent
17 to you?

18 **A.** Yes. So the way Ron Capallia explained it to Matthew and
19 I was that since we had -- we had 60, 50, Level 3 contractors on
20 site because again, this is during the bridge. The way he
21 explained it was, since we have professional services on site,
22 that they can bill for equipment as professional services, since
23 we had the guys there that were going to install it. And that's
24 the way they did it at DHS, and that's the way they could do it
25 here.

1 Q. Ron told you that's the way they do it at DHS?

2 A. Yes.

3 Q. And what does DHS stand for?

4 A. Defense Homeland -- Department of Homeland Security.

5 Q. So the service order request forms you would get back
6 from Ron, how did you understand he was arriving at the price
7 reflected in that service order request form?

8 A. How would he get the --

9 Q. Yeah. How would he come up with the number because there
10 was equipment involved too?

11 MR. CARLBERG: Objection. Calls for speculation at this
12 point.

13 BY MR. AMOLSCH:

14 Q. If you know?

15 THE COURT: Rephrase.

16 BY MR. AMOLSCH:

17 Q. If there was a 760 hours for LAN/WAN integration for the
18 purchase of Sam's Polycom machines, just as an example --

19 A. I got it.

20 Q. -- how did you understand he arrived at the price charged
21 to the Office of the Inspector General for those Polycom
22 machines with a professional services contract line item number?

23 A. Just by math and using a CLIN that was \$50 an hour, if
24 you needed to be \$150 you would multiply it by 3 hours to get
25 the 150 hours --

1 Q. Without the cost of the equipment?

2 A. How would he get that cost of the --

3 Q. How would he factor the cost of equipment into the price
4 he charged the government?

5 A. He would reverse it, right.

6 Q. I don't know what that means.

7 A. So if he needed \$400,000, if the cost of the equipment
8 was a \$100,000, their markup was, I think he said 35 percent
9 when he testified, and so that's \$135,000. He would divide
10 \$135,000 by a CLIN number and come up with the amount of hours.

11 Q. Did that also include -- so did it include a purchase,
12 the cost for the equipment and for the installation, if it
13 needed installation?

14 A. At times there wer- -- at times there were, but normally
15 it was just for the equipment.

16 Q. All right. Is that how, as far as your involvement with
17 the WITS3 project contract, is that how it worked for all these
18 orders?

19 A. Yes.

20 Q. When you showed the comptroller the service order request
21 form, do you think you were being clear about the work being
22 done and the equipment being purchased?

23 A. Yes. I mean there were multiple e-mails where I had to
24 explain what was equipment and what was installation for some of
25 these.

1 Q. Did anybody in the comptroller's office ever question
2 you, what was this being used for?

3 A. No.

4 Q. Did you ever submit manipulated or forged paperwork to
5 the comptroller's office?

6 A. No.

7 Q. Did you ever encourage people to place orders they didn't
8 need?

9 A. No, I did not.

10 Q. Was everything you ordered delivered and installed?

11 A. Every piece.

12 Q. Did you ever specifically request that any of that work
13 or any of the equipment come from MSO?

14 A. I didn't care where it came from. So, no.

15 Q. So tell me how you met Ron Capallia.

16 A. So I believe I was at 400 Army Navy Drive, there was a
17 gentleman by the name of Jim Sweeney. He was a Level 3
18 employee. I think he was a sales guy. And when we had the four
19 or three or four patch level guys, the patch guys who updated
20 all of our systems prior to us getting kicked off, he would come
21 by, see how things are going and try to sell me more things or,
22 you know, just a typical sales guy trying to drum up business
23 for Level 3.

24 And I -- we were right in the middle of BRAC. I didn't
25 have time for sales guys to try and come and sell me something I

1 didn't need, so I reached out to -- I asked him who his boss was
2 and I think his boss was Hoeymans or somebody. So I reached out
3 to them and said, "Hey, don't send this guy down here again. I
4 don't need anybody selling me stuff I'm trying to get us moved."
5 And so they didn't, and so Ron Capallia reached out and said
6 that he was the WITS manager for Level 3, and that Sweeney won't
7 come down anymore, and I said, "Okay. Perfect."

8 Q. Did you know about any relationship Ron Capallia may or
9 may not have had with Mr. Wilson?

10 A. No, I -- I had no idea.

11 Q. That never came up in conversation?

12 A. No.

13 Q. What did you understand Ron Capallia's role to be at
14 Level 3 as it relates to the WITS3 contract?

15 A. He was the WITS expert.

16 Q. Okay. What do you mean by expert?

17 A. Well, he was their -- their -- their WITS program
18 manager, is what I -- I thought his position was. So he was in
19 charge of the -- of the WITS orders and the WITS contract.

20 Q. Did you come to rely on his advice?

21 A. Yes.

22 Q. Did you come to trust that Capallia knew -- Ron knew what
23 he was doing?

24 A. Yes.

25 Q. Okay. So the government asked you about a fair

1 opportunity letter you sent to Ron that National Capital Region
2 letter that was -- that you sent in August -- April or whenever
3 it was back dated. Tell me about that.

4 **A.** So Ron Capallia called me whenever that date was in a
5 panic, and said, "Hey, I'm going to get in big trouble, I don't
6 have this letter. If I get audited, we're going to get in
7 big -- I'm going to get in big trouble. Tim Donelson is on me.
8 Is there any way you can back date this letter?"

9 I didn't know what it was. I was -- I was not happy that
10 he was coming -- coming to me to ask me to save his butt, but I
11 did. I -- I comp- -- I complied and I -- he sent me the letter,
12 and -- and I signed it.

13 **Q.** All right. Did he send one to Tommy Carlyle as well?

14 **A.** He had. He -- he had told me that he had sent one to
15 Tommy.

16 **Q.** All right. Did you have a discussion with
17 Matthew Steiniger about this?

18 **A.** I did. I showed it to Matthew. Matthew was like, "What
19 the -- you know, what hell is going on, what are these guys
20 doing, those bozos." And I said, "I don't know. I just signed
21 it.

22 **Q.** And this letter described fair opportunity requirements.
23 Had you had any training on what fair opportunity requirements
24 were?

25 **A.** Honestly, I didn't even really look at the letter. It

1 was -- it wasn't explained to me that this might affect the IG,
2 it was about saving Ron that I was -- that I was doing that. So
3 I didn't really pay attention to what that letter even said. I
4 just signed it and sent it to him.

5 Q. Was it your intent to deceive the Office of the Inspector
6 General into paying for goods and services they otherwise
7 wouldn't?

8 A. No, not at all. No, not at all. It was a -- it was a
9 regret that I -- that I did that.

10 Q. Was your decision to do that in any way related to
11 Bill Wilson and MSO?

12 A. No, not at all.

13 Q. Was it based on your relationship with Ron Capallia?

14 A. Yeah. I mean, I was trying to go help him.

15 Q. I'm sorry?

16 A. I was trying to help him.

17 MR. AMOLSCH: If we could bring up
18 Government Exhibit 164.

19 BY MR. AMOLSCH:

20 Q. All right. If we could go to the bottom of this e-mail,
21 please.

22 All right. This is Melissa Jones sending an e-mail to
23 Justin Perot. Do you know Justin?

24 A. Yes.

25 Q. Okay. Who is Justin?

1 **A.** Justin worked for me. At some point the IT security came
2 under Matthew -- Matthew security folks under me, so I had all
3 the IT security folks under me.

4 **Q.** All right. And he was one of those people?

5 **A.** He was one of our security engineers, yes.

6 **Q.** Okay. If we could go to the next e-mail. So this is --
7 Justin is forwarding you and Mark Walker a refresh quote. And
8 remind me between who Mark Walker is?

9 **A.** He was our chief architect.

10 **Q.** Okay.

11 **A.** Of the ISD.

12 **Q.** "Hey, guys, see Niksun quote attached. Can we get this
13 through WITS?" What is he referring to when he says Niksun?

14 **A.** So a Niksun, if you think of it as a VCR or TVO for --
15 for -- for data networks. It records a certain amount of --
16 depending on how large the hard drive is, it will record all
17 activity on a span -- on a port that span to their entire VLAN
18 or whatever it is. So it is a VCR that records data. So if
19 anything were to happen, we can go back on the Niksun to see
20 what had happened. If it was an e-mail, if it was an intrusion,
21 it would come back -- you can go back and reverse to see exactly
22 what had happened, what had taken place at that timestamp.

23 **Q.** Okay. Was this something that they, they needed -- that
24 information security division needed for the Office of the
25 Inspector General to complete its mission?

1 **A.** This was a requirement by DISA for us to have a device
2 that would do something like this.

3 **Q.** Okay. When you say it was a, "Requirement by DISA," what
4 does that mean?

5 **A.** So in order for us to be on the DoD network we have to
6 meet certain level requirements, and this was one of the
7 requirements that we have. You have to have a firewall. You
8 need to have an IDS, or intrusion detection system. You just
9 need a cadre of security appliances, and this was one of the
10 flavors of a recorder for IT security.

11 **Q.** If you didn't have that, what would happen to your
12 access?

13 **A.** It would have been cutoff.

14 **Q.** Okay. Would that have made it difficult, if not
15 impossible for --

16 **A.** We wouldn't be able to get e-mails out.

17 **Q.** Okay. And are you also familiar with something called
18 Adtran?

19 **A.** Yes.

20 **Q.** What's Adtran?

21 **A.** The Adtran in this case is a -- it changes from a fiber
22 digital signal to an analog signal so that a fiber optic signal
23 can be transferred into a non-fiber analog signal that can go
24 into our network.

25 **Q.** Okay. Was this also something that ISD needed in order

1 for the Inspector General to complete its mission?

2 A. Yes.

3 Q. Now, you are asking -- he is asking you, "Can we get this
4 through WITS?" So if we go to the next e-mail. You then
5 send -- I'm sorry, the next one down from that. I'm sorry.
6 Beginning here -- you then forwarded it to Ron?

7 A. Yes.

8 Q. And asking him -- basically forwarding the request from
9 Justin to Ron?

10 A. Right. So it's a -- it is a piece of equipment that has
11 many different flavors of it. And so rather than me go and
12 retype what all the requirements are and what cards we need in
13 the appliance, it was just easier for me just to forward exactly
14 what Justin needed to Ron, to get exactly what we needed.

15 Q. All right. And are you asking him as well, "Ron, can we
16 get this off WITS?"

17 A. Yes.

18 Q. You're asking his opinion. All right. And did this --
19 is this something that would need to -- needed to be, the Niksun
20 machines and the Adtran, would they need to be professionally
21 installed as well, or is that just equipment that would arrive?

22 A. This was just equipment that would arrive. There were
23 Level 3 guys that were already on staff in their security
24 division that would help install it.

25 Q. All right. And did you take the service order -- and

1 then did Ron ultimately send you back a service order request
2 form for this material?

3 A. Of course.

4 MR. AMOLSCH: Can we bring up Exhibit 164? Or -- Oh, I'm
5 sorry. This is 164. I apologize.

6 BY MR. AMOLSCH:

7 Q. Now, in this e-mail, let's stick with this one just
8 briefly, there's nothing in the e-mail about your preference
9 about how Ron acquires this equipment?

10 A. Right.

11 Q. Did you have an opinion one way or the other about where
12 this equipment came from?

13 A. I did not care. I didn't care.

14 Q. Would it have been all right with you if he had purchased
15 it from OSI?

16 A. Sure.

17 Q. What was your primary concern?

18 A. Getting the equipment in.

19 MR. AMOLSCH: If we could go to 169. If we could go to
20 the bottom.

21 BY MR. AMOLSCH:

22 Q. So is this the service order request form that Ron sent
23 over to you?

24 A. Yes, it is.

25 Q. All right. And do you under- -- what do you understand

1 this to be about, his answer about whether you can get it
2 through WITS?

3 A. You can get it through WITS.

4 Q. All right. And the technical -- the remarks section in
5 the listing of the equipment, who filled all that out?

6 A. Ron Capallia.

7 Q. Okay. Did he fill in the product I.D. information?

8 A. Yes, I didn't --

9 Q. Okay. Did you ask him, is this one of the times you
10 asked him about the fact that the -- if we can go to the very
11 bottom of this e-mail the service order request form where it
12 lists LAN/WAN integrator -- it lists labor CLINs for the
13 purchase of equipment?

14 A. Mm-hmm.

15 Q. Is this one of the situations in which you asked him, or
16 was this the first time you asked him, "Ron, how are we -- how
17 does this work?"

18 A. Can we go back and look at the date of this?

19 Q. Sure. Let me go to the bottom. The date of this one is
20 April 4th?

21 A. No. We had -- I had, had that discussion -- I had, had
22 that discussion with Ron and Matthew earlier than this.

23 Q. When was that discussion?

24 A. Early in the year. It was probably February or March.

25 Q. Okay. After your arrival at the Mark Center?

1 A. After the arrival at the Mark Center, yes.

2 Q. Did you sign and return this?

3 A. Yes.

4 Q. Service order request form?

5 A. I did.

6 Q. After -- did you show it to Matthew?

7 A. I'm sorry, I want to make sure that --

8 Yes. I -- after I had showed it to Matthew and our
9 comptroller's office.

10 MR. AMOLSCH: Court's indulgence, please.

11 THE WITNESS: Sorry, I didn't want to speak over you.

12 BY MR. AMOLSCH:

13 Q. No. Thank you.

14 Did you also send this quote that you got from
15 Ron Capallia to Jennifer Paper at the comptroller's office?

16 A. Yes, I did.

17 Q. Okay. Let me ask you to take a look at this and see if
18 you recognize it.

19 MR. CARLBERG: Permission to approach on this, Your Honor.

20 THE COURT: I'm sorry?

21 MR. CARLBERG: Permission to approach briefly.

22 THE COURT: Yes.

23 MR. CARLBERG: Thank you, sir.

24 (Following sidebar discussion had on the record at 12:05
25 p.m.:)

1 MR. CARLBERG: Your Honor, this is another one of these
2 e-mails where there's no actual attachment, just the e-mail. And
3 I will represent that we understand what the attachment actually
4 looked like coming in and looks like going out, and it's
5 misleading to present it this way. And we would object to it as
6 an incomplete document and lacking the attachment. It's
7 referencing an attachment; no attachment to it again.

8 MR. AMOLSCH: Your Honor, I can -- can I question
9 Mr. Lumho about whether that's the attachment he sent, and then
10 they can cross-examine him about whether it's the same one.

11 THE COURT: Yeah. If he knows what the attachment is,
12 then he can testify about that.

13 MR. AMOLSCH: Okay.

14 THE COURT: You can identify it.

15 MR. AMOLSCH: Yes, sir.

16 THE COURT: Right.

17 MR. AMOLSCH: Okay.

18 THE COURT: Yeah, I think that's right.

19 (Sidebar discussion concluded.)

20 MR. AMOLSCH: May it please the Court.

21 THE COURT: Yes, sir. Go ahead.

22 BY MR. AMOLSCH:

23 Q. Mr. Lumho, do you recognize that?

24 A. I do.

25 Q. Okay.

1 MR. AMOLSCH: What number is this going to be?

2 MS. GAMLIEL: 39.

3 MR. AMOLSCH: 39?

4 BY MR. AMOLSCH:

5 Q. And what is that?

6 A. This is an e-mail that I had sent to Jennifer Paper after
7 I received the quote from Ron Capallia.

8 Q. And the -- Jennifer Paper works where?

9 A. In the comptroller's office.

10 Q. Okay. You were referencing an attached quote. Are you
11 forwarding this e-mail to Ms. Paper?

12 A. Yes, I am. It says in the subject, "FW."

13 MR. AMOLSCH: I'm sorry, Your Honor, may I publish? May I
14 admit this?

15 THE COURT: Yes, exception is noted.

16 (Defendant's Exhibit 39 admitted into the record.)

17 BY MR. AMOLSCH:

18 Q. All right. So you were forwarding this -- it says,
19 "Kekoa, this is the attached quote," the e-mail we saw earlier?

20 A. Correct.

21 Q. And you're then forwarding this to Jennifer Paper?

22 A. Yes, I am.

23 Q. Okay. "Tax quote is for hardware, equipment, and
24 maintenance." It is -- you're telling her about the cost
25 associated with this equipment; is that correct?

1 A. Yes, I am.

2 Q. And because you forwarded this e-mail rather than
3 replying to it, did Ron Capallia's attachment that he originally
4 sent to you also go along to Jennifer Paper?

5 A. Yes. The attachment is attached to this e-mail that I
6 forwarded to her.

7 Q. Okay. And that's the same attachment that you got --

8 A. From Ron Capallia.

9 Q. -- from Ron Capallia?

10 A. Yes.

11 Q. All right. And did she respond to you, do you remember,
12 about whether she had a problem with that purchase?

13 A. There was no problem with the purchase.

14 Q. And based on -- and this is also the same service order
15 request form that you showed to Matthew Steiniger?

16 A. Yes.

17 Q. Okay. After showing it to Jennifer and showing it to
18 Matthew, is it at that point that you signed it and sent it back
19 to Mr. Capallia?

20 A. Yes.

21 Q. Did you do that intending to deceive the government?

22 A. No.

23 Q. Did you do that in good faith thinking this was something
24 that you were permitted to do?

25 A. Yes, absolutely.

1 MR. AMOLSCH: If we could go to Government's
2 Exhibit 101B.

3 BY MR. AMOLSCH:

4 Q. All right. Do you recognize this service order request
5 form?

6 A. Yes, I do.

7 Q. All right. There's a 6034 in the upper right-hand
8 corner. Do you know what that -- who put that there?

9 A. Yes. I put those on the orders, yes.

10 Q. Okay. Do you know when you put -- when you put that
11 particular one on that order, in what context?

12 A. I put those on there after I would sign them, and I had
13 them in my file.

14 Q. Was -- did there come a time when you reviewed these --
15 when you reviewed service order request forms with agents
16 from --

17 A. Yes.

18 Q. -- DCIS or other places?

19 A. Yes.

20 Q. Okay. During those meetings, were you asked about these
21 service order request forms?

22 A. Yes.

23 Q. Okay --

24 A. So I --

25 Q. Is that when you put the -- is that when you wrote on the

1 service order request form?

2 MR. CARLBERG: Objection. This is very leading and vague.

3 THE COURT: Sustained.

4 BY MR. AMOLSCH:

5 Q. Is that --

6 THE COURT: Rephrase.

7 MR. AMOLSCH: Yes, sir.

8 BY MR. AMOLSCH:

9 Q. During that meeting, was that 6034 put on during the
10 meeting with the agents or had it been put on before?

11 A. So when I -- when I met with the agents during the --
12 during the investigation, I provided them a stack of these
13 service order -- all of the service order request forms that I
14 had. And in order for me to correlate which purchases they
15 were, since the service order request form doesn't have an
16 identifier of which order it is, I wrote down and showed them
17 which portal order number these were. So that's why it has a
18 6034 because it matched a spreadsheet that I had on SharePoint
19 that kept track of all these orders.

20 Q. Is that the point that you wrote that on there?

21 A. Yes.

22 Q. Okay.

23 A. The agents wouldn't have -- it would have taken them more
24 time to try to figure out what this order was if I hadn't put
25 that detail on there along with my spreadsheet that I had given

1 them.

2 **Q.** By putting that identifier on the service order request
3 form, were you trying to deceive or otherwise limit the
4 government's investigation?

5 **A.** No. I was trying to help them. I mean, I didn't do
6 anything wrong, so --

7 **Q.** Do you remember a time when senior executive staff needed
8 video monitors in their offices in order to participate in video
9 teleconferencing events --

10 **A.** Yes.

11 **Q.** -- as part of their job at OIG?

12 **A.** Yes. So again, we had standard -- standard requirements
13 that we would create and get approved through the senior
14 leadership. And when we moved into the Mark Center, the
15 approved requirement for all SESes and conference rooms were to
16 have a video teleconference in their office -- in their office
17 and in all the conference rooms because again we were -- the
18 agency was spread out worldwide. And to make them more
19 cost-effective and efficient, we put out video teleconferencing,
20 like we all know Zoom is now, thanks to COVID. Back then it was
21 a new technology.

22 **Q.** So there was --

23 **A.** Newer.

24 **Q.** Let me see if I have this correct. You mentioned Polycom
25 which we'll get to later. Is that the brains of the video

1 teleconferencing apparatus?

2 **A.** So, yes. You could -- you could hook up to any TV a VTC
3 as long as you had the Polycom end unit. The Polycom end
4 unit -- end unit is like a cable box for non-IT person. It's
5 the computer that transmits the video and the voice to the TV.
6 So the TV is just a peripheral to the Polycom.

7 **Q.** And did there come a time when senior executive staff,
8 Stephen Wilson, Ross Weiland, needed video monitors in their
9 offices to participate in these video teleconferences?

10 **A.** Yes. So when we moved into the Mark Center, for example,
11 Stephen Wilson, our SES, we put a VTC in his office. He was our
12 SES so he was our guinea pig. He was our first SES to get the
13 VTC in his office. And so we knew by doing that it would
14 quickly spread that the SESes -- When is my VTC going to come in
15 and depending on the table since Mr. Wilson has one.

16 So, yes, our standard was all SESes get a VTC and a
17 television inside -- inside their office, along with all the
18 conference rooms.

19 **Q.** Are you familiar with a man named Ross Weiland?

20 **A.** Yes. Ross Weiland was an SES in the Defense Criminal
21 Investigative Services.

22 **Q.** He was in DCIS?

23 **A.** He was -- yes. He was DCIS over operations -- I don't
24 remember exactly where he was, but I know he was a SES in DCIS.

25 **Q.** And he was in the same level as Stephen Wilson from a

1 government hierarchy or higher or lower?

2 A. From an organizational, he was a peer to -- he was a peer
3 to Stephen Wilson.

4 Q. Now, did there come a time when Mr. Weiland requested the
5 same TV that Mr. Wilson had installed in his office?

6 A. Yes.

7 Q. And did other SESes make similar requests?

8 A. Yes. I mean, again, there was a standard where we just
9 hadn't been able to get them out to them as fast as they wanted.

10 Q. All right. And did you communicate with Mr. Steiniger
11 about how to acquire these TVs?

12 A. Yes.

13 Q. And in particular did you have a conversation with him
14 about acquiring a TV for Ross Weiland?

15 A. Yes.

16 Q. Do you know who Terry Peck is?

17 A. Yes.

18 Q. Who is Terry Peck?

19 A. He was my video teleconferencing manager. He worked for
20 me. He managed the VTC contractors.

21 Q. And you're familiar with his e-mail address and --

22 A. Yes.

23 Q. All right. Did there come a time when Samsung TVs were
24 ordered and then delivered to the Mark Center?

25 A. Yes.

1 Q. Who were those TVs delivered to, if you know, prior --
2 were they delivered right to the Mark Center or were they
3 delivered off-site and then delivered, if you know?

4 A. So it -- it's -- it's -- I'm not sure how to answer that
5 question because I -- I know now how they're delivered because
6 of --

7 Q. All right?

8 A. -- testimony and because of discovery that was given to
9 me --

10 Q. Okay.

11 A. At the time I didn't care. Give me what I wanted. We
12 needed TVs give them to me. And how they got there, how they
13 were delivered didn't matter. There's an issue that there was
14 ongoing issues with our receiving area at the Mark Center where
15 folks weren't able to deliver, but I didn't know who delivered
16 them at that time.

17 Q. Um, ultimately they were delivered, the TVs were
18 delivered to the Mark Center?

19 A. They were ultimately delivered to the Mark Center, yes.

20 Q. And was there first stop accountable property?

21 A. Yes. For the TVs, yes.

22 Q. And what is your understanding of what happens in
23 accountable property?

24 A. So accountable property they need the contract
25 information, they look at if it has a hard drive. There's a

1 accountable property policy that was loosely adhered to at the
2 IG. But if you -- if you ask one person what it was and another
3 person, you will get two different answers. Our accountable
4 property was a hot mess.

5 Q. But did the TVs originally get delivered to accountable
6 property? Is that how it --

7 A. They originally got delivered to accountable and sat in
8 accountable property --

9 MR. CARLBERG: Your Honor, objection. He said he doesn't
10 know how they were delivered. I don't understand how this is
11 possible.

12 THE COURT: Sustained.

13 MR. AMOLSCH: Can I pull up Government Exhibit 237.

14 BY MR. AMOLSCH:

15 Q. All right. Take a look -- if we can go all the way to
16 the bottom of this e-mail.

17 Do you see this is an e-mail from Joe Hart to Matthew
18 Steiniger, to you, Terry Peck, and Patria Richardson?

19 A. Yes.

20 Q. Who is Patria Richardson?

21 A. I believe she was an assistant in AI, I think.

22 Q. All right. I'm going to ask you to look at this e-mail,
23 this exchange and then look at the e-mail chain directly after
24 it, and then I'm going to ask you some questions. So let me
25 know when you read that.

1 A. Okay. Okay.

2 Q. Okay. So let's go to the next one in the chain.

3 Matthew is responding to Terry, "Have you had a chance to
4 respond." Go to the next one. Okay. "Matthew, this has been
5 an ongoing issue." I want you to read that --

6 A. Okay.

7 Q. -- and then I'm going to ask you some questions about
8 what your understanding that was about.

9 A. Okay.

10 Q. All right. Do you understand now the context of that
11 e-mail?

12 A. Yes.

13 Q. Okay. And what is going on in this e-mail exchange with
14 you and Matthew and Terry Peck?

15 A. Um, that the TVs were down in the -- the TVs were down in
16 the accountable property waiting to be delivered, but they
17 couldn't be delivered because the paperwork that Terry needed
18 from MSO wasn't -- hadn't been provided.

19 Q. All right. So do you take from this that MSO is the one
20 that provided the TVs?

21 A. Yes.

22 Q. And MSO is associated with what particular --

23 A. Level 3, WITS contract.

24 Q. And was there a -- and -- how was Level 3 related to the
25 WITS3 contract?

1 A. They were the one that we purchased off of the WITS
2 contract.

3 Q. So based on this, Terry Peck is telling Matthew Steiniger
4 that MSO has delivered -- has delivered TVs, which had been
5 purchased through WITS?

6 A. Correct, yes.

7 Q. Okay. Then we look up to see Matthew responding to
8 Terry.

9 A. Yes.

10 Q. "We got this, you know, this is starting to challenge my
11 patience. We got the issue as part of the install from WITS."

12 What is your understanding about whether Mr. Steiniger
13 knew these TVs had been purchased through WITS and from MSO?

14 A. He understood --

15 MR. CARLBERG: Objection. Compound through WITS and MSO.

16 BY MR. AMOLSCH:

17 Q. What is your understanding about whether these TVs were
18 purchased through WITS?

19 A. He knew.

20 Q. All right. And about where and who provided them
21 pursuant to the WITS contract?

22 A. It says right there from Terry Peck, that it was provided
23 by MSO.

24 Q. All right. And then you send an e-mail to Barry Atwood
25 and Bill Wilson and Ron Capallia. What are you asking for here?

1 **A.** So when Level 3 would -- would deliver our equipment that
2 we ordered through WITS, the property accountable- -- property
3 accountability folks downstairs were used to seeing normal GSA
4 contracts, contracts that had their contract numbers, and
5 everything else.

6 Well, through WITS we didn't have a contract associated
7 with these, they were from WITS. And so accountable property
8 had a hard time dealing with -- how do we barcode these and put
9 the information we need inside of our accountable -- accountable
10 property system. And so they sat down in the cage for a month
11 and a half before they would deliver them.

12 Until, finally, after harping on Capallia, he finally
13 gave them, or gave me to give to them, what they needed, which
14 was the contract information number and everything else.

15 **Q.** Why did you e-mail Mr. Wilson about this?

16 **A.** Um, I e-mailed Barry and Mr. Wilson because I knew that
17 it came from MSO, evidently.

18 **Q.** And did you -- would they have had the information you
19 were looking for?

20 **A.** Yeah.

21 **Q.** You signed the service order request form purchasing the
22 TVs from Level 3?

23 **A.** I'm pretty sure I did, yes. It was either myself or
24 Tommy --

25 **Q.** Did you do that before --

1 THE COURT REPORTER: I'm sorry. Say that again.

2 THE WITNESS: It was either myself or Tommy, but I'm
3 pretty sure it was myself.

4 BY MR. AMOLSCH:

5 Q. Did you do that before showing the service order request
6 form in its entirety to Mr. Steiniger?

7 A. No. He saw the service order request form.

8 Q. How about the comptroller's office?

9 A. They saw it.

10 Q. Did you sign that service order request form with any
11 intention to defraud the government?

12 A. No.

13 Q. Did you sign that in good faith because you thought you
14 were allowed to do so?

15 A. Yes.

16 Q. Did part of your duties include purchasing and testing
17 equipment for potential use within the broader Office of the
18 Inspector General?

19 A. Yes. So within my area of -- of telecommunications and
20 networks and phones and security, most things that came under my
21 area or "lane," as Matthew would call it, we would be
22 responsible for testing -- testing it to make sure that it
23 worked on our infrastructure.

24 Q. And was that one of your responsibilities?

25 A. It was, yes.

1 Q. Did the information security division Matthew Steiniger's
2 group, your group, did they use Apple equipment?

3 A. We did, yes --

4 Q. In '11, 2012?

5 A. Yes, we did. And it's the Information Systems Director.
6 I just don't want to confuse the jury that it was -- the
7 security was under me, but Matthew was in charge of the.

8 Q. My mistake, Information Systems Directory. Were there
9 both Apple servers and MacBooks in use or just one or the other?

10 A. There were both.

11 Q. Now, did you have a Mac server that you used --

12 A. -- I did --

13 Q. -- at the Office of the Inspector General?

14 THE COURT REPORTER: I'm sorry, I didn't hear your
15 question.

16 BY MR. AMOLSCH:

17 Q. Did you have a Mac server that you used at the office of
18 the Inspector General?

19 A. I did have a Mac Pro in my office.

20 Q. And where did -- where was that ser- -- where was that
21 Mac server physically located?

22 A. Right in front of my door, where my desk was.

23 Q. Did you take any -- any steps to conceal the fact that,
24 that server was sitting in your office?

25 A. No. Everybody knew that I had the server in my office.

1 It was a -- it was a -- an often talked about piece of equipment
2 that I had in my office.

3 Q. Why was it often talked about?

4 A. It was a really powerful server that our security
5 division was going to use for virtual machines for our -- for
6 virtual machines. I'll just leave it at that.

7 Q. And how -- was that -- was that -- how did that Mac
8 server -- how was that acquired?

9 A. We purchased that off of the WITS3 contract.

10 Q. And why did you purchase it off WITS?

11 A. It was --

12 Q. -- why was it purchased off WITS?

13 A. For me to test it. To make sure the Mac OS security --
14 security posture that is required by DoD could be laid on top of
15 a Mac Pro prior to us buying them for our web team.

16 Q. All right. Was Mr. Steiniger aware of this purchase?

17 A. Absolutely.

18 Q. Did he authorize this purchase?

19 A. Yes, he did.

20 Q. All right. Did he tell you to use WITS to acquire it?

21 A. Yes.

22 Q. Let's talk about MacBook's.

23 A. Mm-hmm.

24 Q. Did ISD use MacBook's as opposed to servers or in
25 addition to servers in 2012?

1 A. We did. We had a number of MacBook Pros.

2 Q. Did there come a time when ISD acquired laptops for the
3 purposes of testing?

4 A. Yes.

5 Q. Can you tell me about that?

6 A. Again, we had during this similar timeframe, we needed to
7 test it on both a Mac Pro and a MacBook device. So we -- we
8 purchased MacBook Pro as well. We purchased a number of MacBook
9 Pros.

10 Q. Okay. And the purchase of MacBook Pros, did that come to
11 you as a request from one of the components you supported? Do
12 you remember?

13 A. There was a request from a component for MacBook Pros.
14 There was. There was one.

15 Q. All right. And did you discuss the purchase of the
16 MacBook Pros with Matthew Steiniger?

17 A. Yes.

18 Q. Okay. And how did he tell to you acquire them?

19 A. Through WITS.

20 Q. Okay. Did you -- is that how acquired them?

21 A. Yes.

22 Q. Okay. When you acquired the MacBook Pros for testing
23 purposes for ISD through WITS, was it your intention to deceive
24 the government?

25 A. No, it wasn't.

1 And if I could clarify the way that sounds. So Matthew
2 didn't say, "Use WITS," he said, "Check and see if we can get it
3 off of WITS."

4 Q. Okay. Check and see if you can get it off WITS. So what
5 did you do after he told you that.

6 A. I checked to see if I could get it off WITS.

7 Q. With who?

8 A. Ron Capallia.

9 Q. Okay. And what did Ron say?

10 A. "Yes."

11 Q. Okay. Did Ron send you back a service order request
12 form?

13 A. Yes, he did.

14 Q. Okay. Did you take that service order request form to
15 Matthew?

16 A. Showed it back to Matthew.

17 Q. Did you show it to him?

18 A. Yes, I did.

19 Q. Did he approve it?

20 A. Yes, he did.

21 Q. Did he si- -- did you take it to the comptroller's office
22 to see if there was money for this purchase?

23 A. Always.

24 Q. Did you take the service order request form with you?

25 A. Yes, I did.

1 Q. Did you receive approvals from both the -- did you
2 receive approvals from the comptroller?

3 A. Yes.

4 Q. And from Matthew Steiniger?

5 A. Yes.

6 Q. And after receiving those approvals, did you submit the
7 invoi- -- did you sign and submit the service order request
8 form?

9 A. Yes, I did.

10 Q. All right. And did the government get what it paid for
11 in the sense that the MacBooks arrived?

12 A. Yes, they did.

13 Q. Okay. And were they put into use --

14 A. Yes, they were.

15 Q. -- at the offices of the Inspector General?

16 A. Mm-hmm.

17 Q. I'm sorry?

18 A. Yes, they were.

19 Q. Are they -- do you know where they are now? Are they
20 still there, do you know where they are?

21 A. According to the inventory that was given to me from the
22 discovery from the government, they are still.

23 MR. CARLBERG: Objection to commenting on the discovery.

24 THE COURT: Well, it's irrelevant any way.

25 THE WITNESS: They're still at the IG's office.

1 MR. AMOLSCH: I'll move to another question.

2 THE COURT: I'll strike the question and answer. Next
3 question.

4 MR. AMOLSCH: Yes, sir.

5 BY MR. AMOLSCH:

6 Q. Are you familiar with SMART Boards?

7 A. Yes.

8 Q. Okay. What are SMART Boards?

9 A. They are a whiteboard that is, an interactive whiteboard,
10 that is hooked up to your computer system so that you can save
11 what's written on the whiteboard. You can manipulate what's on
12 the whiteboard from a laptop. It's basically a whiteboard and a
13 laptop combined.

14 Q. Did OIG use SMART Boards?

15 A. Yes, we purchased some.

16 Q. Where were they used?

17 A. They were in the training room -- the -- the -- the
18 training -- our training directorate's training rooms. And I
19 believe we also had one inside of -- a number of conference
20 rooms including ISD's conference room.

21 Q. Is this something that ISD was aware they were going to
22 need to purchase before they actually made the move, or did this
23 become apparent after you arrived?

24 A. That was apparent after we arrived. Mr. Stephen Wilson
25 went to a, just a trade show, at a trade show for DISA, and came

1 back with a shiny object called, a "SMART Board" that he wanted
2 to get. And so he wanted to get those for our conference rooms
3 that were heavily used for meetings and our training room.

4 Q. Did Mr. Wilson give you any directions about acquiring
5 these SMART Boards?

6 A. Um, through a conversation with Matthew and Mr. Wilson,
7 yes. It was discussed using WITS3.

8 Q. Okay. So they were -- so -- the SMART boards, were they
9 ultimately acquired using the WITS3 contract?

10 A. They were.

11 Q. This was done at the request -- who requested you to use
12 the WITS3 contract for this?

13 A. Again, Matthew checked to see if we could get it, and I
14 checked to see if we could get it through Ron Capallia.

15 Q. And did you understand this coming from even higher than
16 Matthew Steiniger, his boss?

17 A. Yes.

18 Q. Okay. Same questions as before. You received the
19 service order request form, did you take it to
20 Matthew Steiniger?

21 A. Yes, I did.

22 Q. Did he approve it?

23 A. Yes.

24 Q. Did you take it to Jennifer at the comptroller's office?

25 A. Yes, I did.

1 Q. Did they approve it?

2 A. Yes.

3 Q. Was it after that, that you signed and sent the work
4 order back?

5 A. Yes.

6 Q. Did you do it with the intent to deceive the government?

7 A. No, I did not. And we received them and they were
8 installed.

9 Q. I'm sorry. What was that?

10 A. And they were received and installed and being used still
11 today, as far as I know.

12 Q. Did there come a time when the Office of the Inspector
13 General did an upgrade of Windows operating systems?

14 A. Yes. So that was -- if I could explain real --

15 Q. Mm-hmm.

16 A. So our desktops at the time in 2012 were still using
17 Windows XP, which by then was very, very old. And Microsoft was
18 at the end of life for Windows XP. And so they were stopping to
19 support Windows XP, which meant that they were no longer going
20 to push patches for Windows XP, which was going to be a huge
21 security problem for us.

22 So a day late and a dollar short we were behind the gun
23 to, within months, upgrade all of our systems to Windows 7 -- or
24 was it Windows 7? Yeah, Windows 7.

25 Q. And who was ultimately responsible within the Office of

1 the Inspector General for the Windows 7 roll out and upgrade?

2 A. Matthew Steiniger.

3 Q. Did the upgrade have to happen just at OIG headquarters,
4 or did it have to also include the field offices?

5 A. It was required at all work stations, all laptops across
6 the world.

7 Q. All right. And again, that was -- you described security
8 concerns?

9 A. Yes. So, again, Microsoft was going to stop providing
10 patches for Windows XP. I don't exactly recall the date but it
11 was looming when we needed to kick this thing off, yes.

12 Q. Were there IT -- did you -- did the ISD IT people assist
13 with the Windows 7 upgrades at OIG headquarters?

14 A. Yes. So we hadn't done a roll out of a new software in a
15 long time, and so we had technicians with their users as these
16 upgrades were happening to make sure that drives were mapped
17 again, that they would work, printers, the whole -- the whole
18 thing. So that the upgrade was successful and didn't impact the
19 users. So we had -- we had technicians on site.

20 Q. Did you have a discussion with Stephen Wilson about
21 whether IT technicians should be on site at the field offices?

22 A. Yes.

23 Q. And what was his opinion on that?

24 A. Must have.

25 Q. Let me show you an e-mail, if I could.

1 MS. GAMLIEL: It's 39.

2 MR. AMOLSCH: Thank you, sir.

3 BY MR. AMOLSCH:

4 Q. Okay. Do you recognize that?

5 A. I do.

6 Q. Okay. Is that an e-mail from Stephen Wilson to you, to
7 Matthew Steiniger, and others?

8 A. Yes, it is.

9 MR. AMOLSCH: Your Honor, I move at this time Defense's
10 40.

11 THE COURT: Any objection?

12 MR. CARLBERG: No, sir.

13 THE COURT: It's received.

14 (Defendant's Exhibit 40 admitted into the record.)

15 MR. Amolsch: How do I turn this on Ms. Sandvig?

16 BY MR. AMOLSCH:

17 Q. Okay. Do you see an e-mail from Stephen Wilson to you,
18 Matthew Steiniger; April 11th, 2012?

19 A. Yes, I do.

20 Q. Do you know who Lyle Raznick is?

21 A. Yes, he was the division chief over the server
22 integration.

23 Q. Ricardo Farrerah?

24 A. He was the division chief over customer support.

25 Q. And who is colonel -- I'm sorry it looks like

1 Jose M. Ramos, colonel?

2 A. Colonel Ramos was the military assist to Stephen Wilson,
3 he was Stephen Wilson's deputy.

4 Q. Mr. Wilson is writing to you, "Concur with the request
5 for a technician to be on site for the Windows 7 upgrade. Just
6 good business."

7 A. Yes. So he's --

8 Q. I'm sorry. Tell me about that.

9 A. So he is approving and thinking- -- and telling us that
10 he's approving for a technician to be on site for the Windows 7
11 upgrade. Specifically for OGC, but this was -- set the
12 precedent. This was our -- our pilot for the Windows 7 upgrade
13 so this set the precedent for us having technicians on site for
14 all the Windows 7 upgrades.

15 Q. And the top of this e-mail says, "Windows 7 deployment
16 schedule and call for volunteers." Do you see that?

17 A. Yes.

18 Q. So what's that about?

19 A. So Ricardo had -- this project was under
20 Ricardo Farrerah's purview so he had created a deployment
21 schedule for Windows 7 to all of our field techs around the
22 world.

23 Q. Um, did there come a time when there was a decision to
24 send IT contractors out to the sites to help with the Windows 7
25 installs?

1 **A.** Yes. So there was. During one of our division staff
2 meetings, Ricardo brought this up. There was no way for the
3 government folks to be able to travel to all the sites around
4 the world to do it and to complete it in the time that we needed
5 for the Windows XP upgrade cutoff for the patches. Excuse me.
6 So Matthew decided -- Matthew decided that it was going to be a
7 necessity for our contractors to travel to -- around the world.
8 Again, this was a time-constraint requirement. If we had more
9 time I don't think it would have happened that way.

10 **Q.** I'm sorry. Say that again?

11 **A.** It was a time constraint. So if we had a year to do this
12 or if we had planned this in 2010, then we wouldn't have been
13 under the gun to do this, but this was another must do before we
14 get --

15 **Q.** Um, so let's take a look at, um -- I'll show you another
16 e-mail, Mr. Lumho.

17 MS. GAMLIEL: 41.

18 MR. AMOLSCH: I got it. Thank you.

19 BY MR. AMOLSCH:

20 **Q.** Okay. Take a look at that Mr. Lumho, and let me know
21 when you're ready.

22 **A.** Yes, I recall this.

23 **Q.** Okay. And this is an e-mail from you -- from Ricardo to
24 Matthew Steiniger and you about the Windows 7 deployment
25 schedule?

1 **A.** Yes, it is.

2 MR. AMOLSCH: I move Defense's Exhibit 41, Your Honor.

3 THE COURT: Any objection?

4 MR. CARLBERG: No, sir.

5 THE COURT: Received.

6 (Defendant's Exhibit 41 admitted into the record.)

7 BY MR. AMOLSCH:

8 **Q.** So let's start at the back, Mr. Lumho. Well, first of
9 all, this says, "Windows 7 deployment schedule." And it says
10 here, "Tab B, field sites." What is that referring to?

11 **A.** The attachment that was on this original e-mail from
12 Ricardo had the deployment schedule.

13 **Q.** It says, "Notes regarding field site trips there's a
14 total of 26 trips." What did you understand those 26 trips to
15 be referring to?

16 **A.** The 26 trips for the Windows 7 upgrade.

17 **Q.** Okay. And if we go to the back of this e-mail, this
18 is -- this is the back of the e-mail from Ricardo to Matthew, "I
19 have talked to Barry about contractor travel costs." Who is
20 Barry?

21 **A.** That was Barry Atwood, he was the program -- he was the
22 PM from MSO on site with -- for Level 3.

23 **Q.** So he's an employee of MSO contracted to the Department
24 of -- the Office of the Inspector General?

25 **A.** Correct, through Level 3.

1 Q. And this is Ricardo saying he's talked to Barry from MSO
2 about travel costs, and there's a reference in there to the
3 amount of money per month per employee?

4 A. That's what it says, yes.

5 Q. And Matthew Steiniger is copied on the discussion Ricardo
6 is having with you about Barry and the contractor costs for the
7 field trips?

8 A. Yes. And if I could clarify something --

9 Q. Absolutely.

10 A. -- real quick. I had said earlier that Ricardo Farrerah
11 was the -- was the chief in charge of customer service. At this
12 point Ricardo had been moved to systems integration and Lyle had
13 been removed from that position. So just to clarify that
14 Ricardo was now the chief of server integration. Sorry.

15 Q. So what is your understanding about whether
16 Matthew Steiniger knows that MSO is going to be sending
17 contractors to these field sites?

18 A. So Matthew was very aware that MSO, Level 3 was going to
19 be sending their contractors to the sites for this Windows 7
20 upgrade.

21 Q. And MSO is a subcontractor to Level 3?

22 A. Correct.

23 Q. And how is Level 3 paid by the Office of the Inspector
24 General?

25 A. Through WITS3.

1 Q. Now, were you part of any discussions with Willie Spivey
2 and the acquisitions division about arranging for these -- the
3 travel expenses of these MSO techs through his office?

4 A. Through Willie Spivey?

5 Q. Yes, sir.

6 A. Yes.

7 Q. Okay. And was -- was -- based on those discussions, was
8 Willie Spivey and acquisitions able to accommodate the travel
9 requests for these IT technicians?

10 A. They were not. No.

11 Q. And why is that?

12 A. Because they were not government employees and it was --
13 AQD didn't -- AQD was the travel office, was for government
14 employees not contractors.

15 Q. So is it -- so it had to do with the fact that they were
16 contractors not employees?

17 A. Yes.

18 Q. All right. Rather than full employees.

19 Now, did MSO technicians, in fact, travel from the field
20 offices to assist with the windows 7 installs?

21 A. They did.

22 Q. Okay. Did that happen between June and September of
23 2012?

24 A. Yes.

25 MR. AMOLSCH: Can I bring up -- I don't have the

1 exhibits. I apologize. Let's first pull up Government
2 Exhibit 174. Can we go to the bottom of this? Is there another
3 page to this? Okay. There we go.

4 BY MR. AMOLSCH:

5 Q. All right. Do you recognize this, Mr. Lumho?

6 A. Yes, I do.

7 Q. Okay. And what is this service order request form?

8 A. This was the service order request form that was given to
9 me for the travel of this Windows 7 deployment.

10 Q. All right. And if we can go to the bottom of that. Up
11 charge of \$179,000; is that right?

12 A. Correct, yes. That's correct.

13 Q. For the Windows 7 travel?

14 A. Yes.

15 Q. Can we go to your -- to this e-mail. This is -- you then
16 send an e-mail to Tim Donelson, "Give me a call when you get a
17 chance, please." Why are you sending it to Tim Donelson?

18 A. I had already tried to reach Ron Capallia a number of
19 times regarding this order and he was non-responsive.

20 Q. Non-responsive?

21 A. Right.

22 Q. Okay. And then we go to the next e-mail. "Kekoa, sorry
23 for the late reply. I believe what you're looking for is
24 attached to this e-mail."

25 And then if we can go down one more. This is an e-mail

1 from you to Tim Donelson again. What are you talking about here
2 about the cost associated with the MSO's travel to those field
3 offices?

4 **A.** I am expressing my unhappiness with the cost that they
5 had given me in that quote based off of my knowledge of me
6 booking a family reunion trip for my family to Hawaii. I had
7 recently done that I think at this timeframe. And the
8 conversation that I had with Ron Capallia about a vacation that
9 he had taken, that he had recommended I take -- to a -- on a
10 Disney cruise or something, and how much it cost him and how --
11 how -- how cheap it was.

12 **Q.** Okay. And were you comparing that cost to this -- the
13 cost Level 3 was charging?

14 **A.** That's all I had to go by, yes. Is what I had
15 researched, yes.

16 **Q.** And what is your feeling about the cost that Level 3 is
17 charging?

18 **A.** That is was astronomically higher. Too much money for
19 what we were requesting to do.

20 **Q.** Okay. Did you -- in response to that --

21 MR. AMOLSCH: If I could bring up Government's Exhibit
22 109D.

23 BY MR. AMOLSCH:

24 **Q.** In response to that, did Ron Capallia send you another
25 invoice for the Windows 7 travel?

1 A. Yes, he did.

2 Q. Is that, that invoice?

3 A. Yes, it is.

4 Q. And what is the cost on this invoice?

5 A. It's about \$130,000 less.

6 Q. I'm sorry?

7 A. It was about \$130,000 less than what the original one
8 was, this is 42,000.

9 Q. And this is the -- do you know why Ron Capallia sent you
10 service order request form?

11 A. Because of my complaint about the price.

12 Q. And when you were complaining, did you know that the
13 reduction in cost was ultimately going to fall on Mr. Wilson, or
14 did you not have any idea?

15 A. I didn't -- I didn't know -- I didn't care. I'm sorry.
16 It was -- I didn't care. It was what we needed.

17 Q. Um, let's talk about iPads.

18 A. Okay.

19 Q. Um, were iPads used in OIG in the regular course of their
20 business?

21 A. We had a small -- we had a handful of iPad 2s for senior
22 executives, yes.

23 Q. All right. And --

24 A. And we also had a few in ISD again for testing, we had a
25 few in ISD.

1 Q. All right. And were you aware of something called iPad
2 initiative?

3 A. Yes.

4 Q. What was that?

5 A. That was again to move to the next iteration of iPads
6 which was the iPad 3 at the time. To give those out for
7 executives when they travel. We were doing a lot of traveling
8 to southwest Asia at this time because of the global war on
9 terror, and we were -- the IG or the staff was bringing booklets
10 the size of the one on Agent Russo's desk in front of her with
11 all their meetings, their bios of all the generals that were at
12 the meeting, and so we could accommodate them with an iPad that
13 had all that information.

14 Q. And you ultimately purchased seven iPads?

15 A. We did. We bought some for testing.

16 Q. For testing. And were those iPad 3s, iPad 2s, what were
17 they?

18 A. They were iPad 2s.

19 Q. The testing ones --

20 A. I mean, I'm sorry. Those were iPad 3s. iPad 2 is what
21 we had, we needed to do buy iPad 3s.

22 Q. Why did you need to buy iPad 3s, if you already had iPad
23 2s?

24 A. Because they were the -- the newest ones that were
25 appr- -- that were getting ready to be approved by DISA for us

1 to use on the DoD network.

2 Q. Did you have to, um -- did you have to acquire them in
3 order to test them?

4 A. Yes. We had to buy them in order to test them.

5 Q. And did you ultimately acquire them?

6 A. Yes, we did.

7 Q. Okay. We're going to come back to that in a second.
8 Let's talk about the camera and the lens.

9 A. Yes.

10 Q. Were there occasions when the Office of the Inspector
11 General would make use of professional photographers?

12 A. There were, yes.

13 Q. Okay. Tell me how that worked?

14 A. So we had an in-house photographer that was in our
15 communications directorate. She was a part-time photographer,
16 and so at her availability we would have her take photos for
17 events, retirements, training seminars, different events that we
18 had at the IG.

19 At the Mark Center there's an auditorium that is four
20 times the size of this courtroom with raised seats and a big
21 stage, and we would have a lot of events there for training
22 seminars, again, just a number of different events.

23 Q. Did you have an occasion to actually coordinate the
24 arrival and availability of those photographers?

25 A. Yes. So during the IG's retirement, Gordon Heddell was

1 our IG in 2011. And he was retiring and he insisted on having a
2 photographer or -- it -- it was a -- it needed to be documented,
3 and so it came down from the top to get a photographer.

4 Q. My understanding is that this photographer is actually
5 assigned to a different part of Office of the Inspector General;
6 is that right?

7 A. So, yes, the part-time photographer that we had is
8 assigned to the IG. She works for the IG but for this
9 particular retirement she was not available.

10 Q. Were there other times when OIG wanted to document with
11 photography, events where, likewise, there was no photographer
12 available?

13 A. Yes.

14 Q. All right. How did -- you know, did you have
15 conversations with Stephen Wilson about that?

16 A. Yes.

17 Q. Did you have conversations with Matthew Steiniger about
18 that?

19 A. Most definitely.

20 Q. The last thing, let's talk about the Windows 7 active
21 direct- -- active directory project. Do you know what that was?

22 A. Yes.

23 Q. I'm sorry?

24 A. Yes, I do.

25 Q. Okay. What was that?

1 **A.** So the actively directory needed to be upgraded to a
2 newer version. We were on a very old active directory platform.
3 The active directory, is where all of our users are housed in a
4 Microsoft environment. It contains -- it contains everything
5 from what you have access to. It's kind of the central nervous
6 system for a Windows environment.

7 So we needed to upgrade our active directory. And by
8 upgrading our active directory, it enabled us to have
9 enhancements that we didn't have prior to the older active
10 directory.

11 For example, adding -- the ability to add photos to our
12 active directory profile so that when you sent an e-mail my ugly
13 picture would be there and they will know how unattractive I am
14 when I would e-mail them. Or when they would send an instant
15 message to somebody, their photo would -- would show up.

16 It was -- so the importance of it was, as a customer
17 service arm of -- of the Inspector General's Office, we would
18 travel to go see these sites and there were many times, for
19 example, during the Windows 7 upgrade where we were turned away
20 by the agents because they had no idea who we were. They knew
21 we were coming, but they didn't know that we were there.

22 So put the picture in their hand of who we were when you
23 e-mail them and it was just going to be a good success for ISD
24 and A & M in general.

25 **Q.** Did there come a time when ISD arranged for a

1 professional photographer to take professional head shots for
2 the active registry?

3 A. Yes. So we tried using the --

4 Q. Let me stop you there.

5 A. Yes.

6 Q. I'm going to show you something --

7 A. Okay.

8 Q. -- and ask you some questions.

9 MR. AMOLSCH: Thank you.

10 BY MR. AMOLSCH:

11 Q. All right. Do you know do you recognize what that is?

12 A. I do.

13 Q. What is that?

14 A. This is an e-mail from our admin assistant,
15 Holly Reynolds to a large number of us, all of ISD -- all of
16 ISD, excuse me, to organize -- a shared organized -- a session
17 with a photographer for us get our pictures taken.

18 MR. AMOLSCH: Your Honor, I move Defense's Exhibit 42.

19 THE COURT: Any objection.

20 MR. CARLBERG: No.

21 THE COURT: It's received.

22 (Defendant's Exhibit 42 admitted into the record.)

23 MR. AMOLSCH: I don't think it went on. All right. Thank
24 you.

25 BY MR. AMOLSCH:

1 Q. All right. So this is sent from Holly Reynolds?

2 And who was Holly Reynolds?

3 A. She was our admin assistant.

4 Q. Okay. IFD a photographer from OCCL?

5 What's OCCL?

6 A. That's where the photographer worked.

7 Q. Okay. Taking professional head shot pictures. Tell me
8 about the professional head shot pictures.

9 A. So we had tried using the small digital camera that has
10 been talked about to do these photographs. At the Mark Center
11 there's just white walls behind -- all the walls are just plain
12 white, so trying to find a location one where we can get a photo
13 and not have this huge shadow behind our head, call it vanity or
14 whatever, Matthew was not happy with the photos that we had
15 taken with that. So he wanted to arrange for the photographer
16 from OCCL to take these photos.

17 Q. All right. And was it a professional type of
18 environment?

19 A. It was a -- I call it a studio. They had extra flashes
20 and -- yes, it was a -- it was a photog- --

21 Q. Professional studio?

22 A. Yeah. It was a professional studio.

23 Q. Um, this lists March, I'm sorry, May 24th through
24 Tuesday, May 29th as when people are supposed to come by for
25 their head shots; is that correct?

1 A. It was a four hour window, I believe, from 9:00 to 12:00
2 in one day.

3 Q. All right. Was everybody able to get their picture
4 taken --

5 A. No.

6 Q. -- during that time period?

7 A. No. We had 120 folks, contractors and the government
8 folks. So, no.

9 Q. All right. So during that time period some photos were
10 taken, but not everybody could get their shots?

11 A. Correct, but the photos were good.

12 Q. How did Mr. Wilson feel about the delay in getting
13 everybody's picture taken in a way that could be used on the
14 active service directory?

15 A. So Mr. Wilson, has common term would say, "This is a hot
16 item, this is hot." He liked it. It was a positive thing that
17 was -- that was visually you could see, so he was hot to get
18 this done, and it was the perfect concept within ISD.

19 Q. Did you have any discussions with him about ISD acquiring
20 its own camera and lens for the purposes of completing this
21 project?

22 A. Yes, again, Matthew and Mr. Wilson and I were having a
23 conversation about this project, and -- and how if Mr. Wilson's
24 SES photo was nice and polished, and Matthew's photo was nice
25 and polished, but I had this photo from a hand-held camera that

1 wasn't polished like theirs. And so they made fun of me.

2 So, yes, we had a discussion about getting a camera, a
3 professional camera that had a good flash for not only this. It
4 was a combined win, so to speak for not only this, but also for
5 our events that we held at the Mark Center or at different
6 events that we had at the IG.

7 Q. Now, why did you -- why was this purchased through WITS
8 as opposed to any other contracting mechanism?

9 A. Um, Matthew said to get it through WITS. We could have
10 split the purchase up into multiple credit card purchases, but
11 Willie Spivey, he wouldn't have allowed us to split purchases
12 into multiple \$3,000 purchases.

13 Q. Um, did there, um -- was that camera used to complete the
14 rest, or work on completing the rest of the professional
15 photographer pictures for the active service directory project?

16 A. It was used for that and many other thing, yeah.

17 Q. Now, did you ever take this camera and equipment outside
18 of the Office of the Inspector General?

19 A. So I didn't -- I did not take it outside of the Office of
20 the Inspector General. There was an event at -- we had an IG
21 picnic every year, and at the IG picnic, somebody used it. I
22 believe -- it was somebody within ISD used it to photograph the
23 IG picnic for our Internet -- our Internet -- our -- our --
24 Web page -- internal to our users was updated dated every day.
25 Every day there was something. It wasn't like a stale Web page

1 that you went to. It was like if you go to CNN or wherever, Fox
2 News, it's a constant update. So we updated our Internet all
3 the time with photos or events or anything else. So those
4 photos were used for those things.

5 Q. Did you ever take this camera lens anywhere to use it for
6 your own personal benefit?

7 A. I never used it for my own personal benefit. I have my
8 own camera. I have my own camera. I never used it for my own
9 personal.

10 Q. Let's talk about the Bose SoundDocks?

11 A. Okay.

12 Q. Tell me about the Bose?

13 A. So Terry Peck, my AV guy, he was also our -- just like
14 OCCL had a part-time photographer, Terry Peck was our part-time
15 DJ for a lot of the events we did. We had these big 1980 cloth
16 covered speakers that he would get out for events for music,
17 Christmas party, retirement, chili cook off. We had a lot of
18 these diversity day events.

19 And it was frustrating to me that Terry would take a day
20 or two out of his work where he's supposed to be doing AV stuff
21 to do these DJ things for music. And so Matthew and I talked,
22 and Mr. Wilson, again was in that conversation, about getting a
23 small stereo that we could use an iPad Nano to play music.

24 Q. Now, there was some discussion about Mark Center being a
25 secure environment and you can't -- tell me about that.

1 **A.** So if we had put an iPhone on that Bose SoundDock, then,
2 yes, you cannot bring a personal iPhone into the secured space
3 because of Bluetooth and wireless connections. But if you have
4 an iPad Nano, at the time, if you guys remember what an iPad
5 Nano it's just a simple stick with a screen that doesn't have
6 Bluetooth. It didn't have anything, and you could stick it into
7 the Bose SoundDock and you could have it in a secured space.
8 So, we had, again retirement parties, events, Christmas parties,
9 pot lucks where that SoundDock was used.

10 That was one of them. The other one was used at --
11 Mr. Wilson requested to have. I believe -- I don't -- it was
12 going to go to the IG's front office. The IG G's front office
13 was in a large space, probably a quarter -- less than a quarter
14 of this size courtroom, as the old front office. And so there
15 would be visitors that would come and visit, and his conference
16 room was right next to it so I guess Mr. Wilson wanted to have
17 light music going on in there, and I think the secretaries made
18 the request. I don't know how it came about, but the last I saw
19 it came in I gave it to Mr. Wilson -- I gave it to Matthew,
20 Matthew gave it to Mr. Wilson, and I never saw it again.

21 **Q.** All right. Again, did you ever take this equipment
22 outside of the Office of the Inspector General?

23 **A.** No, I did not.

24 **Q.** Did you ever use it for personal use?

25 **A.** No.

1 Q. The camera and the lens, was that a bribe paid to you by
2 Mr. Wilson in exchange for any official action?

3 A. No.

4 Q. Was the Bose, the \$350 Bose system --

5 THE COURT REPORTER: I'm sorry.

6 MR. AMOLSCH: Sorry.

7 BY MR. AMOLSCH:

8 A. No, it was not.

9 Q. Was the Bose SoundDock a bribe paid to you by Mr. Wilson
10 in exchange for favorable treatment?

11 A. No. That's --

12 THE COURT: Thank you, Mr. Amolsch. Why don't we break
13 for lunch now.

14 MR. AMOLSCH: That's absolutely fine, Your Honor. I had
15 just a few more questions about this particular event, or we can.

16 THE COURT: Okay. Finish up.

17 MR. AMOLSCH: All right.

18 BY MR. AMOLSCH:

19 Q. Just two more -- a couple more questions. If we could
20 bring up -- actually, you know what, Your Honor, let's break now
21 so I don't try the Court's patience.

22 THE COURT: All right. Let's take an hour for lunch, and
23 we'll come back at 2:00 and continue testimony. You're excused.
24 Thank you.

25 (Jury out at 1:02 p.m.)

1 THE COURT: All right. Anything before we break?

2 MR. AMOLSCH: No, sir.

3 MR. SALVATO: No.

4 THE COURT: I have an arraignment at 10 minutes to 2, so
5 just leave a little space up there for us to get the -- it will
6 only take five minutes, and do you want to talk about the
7 willfulness issue before we bring the jury back at 2 or.

8 MR. SEARS: Your Honor, I -- maybe I'm stating the obvious
9 but maybe not but my guess is we won't be closing today after
10 all, given where we are, so if you want to save that for the end
11 of the day we're happy to do it then so the government has enough
12 time to review it. However, the Court wants to do it is okay
13 with us.

14 THE COURT: I still don't know whether we'll get
15 instructions done today. That was still leaving out some hope
16 that we would get some portion of it done. But let's -- you all
17 talk about it before we resume. I've read the Mayor case, and
18 Ted Greenberg was the prosecutor.

19 MR. SEARS: Yes, Your Honor, and I will tell the Court and
20 we don't need to do it now obviously, but I had spoken to
21 Mr. Wilson and it's our preference to not have a jury trial on
22 the forfeiture issue, and when the appropriate time you can have
23 that colloquy with Mr. Wilson directly but I can tell the Court
24 that, that issue is off the table at this point.

25 THE COURT: All right. Thank you. All right. Sir,

1 you're in the middle of your testimony, so don't discuss the
2 testimony you've given so far with anybody, all right?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. We're in recess.

5 (Thereupon, a luncheon recess was had beginning at
6 1:04 p.m.)

7

8 AFTERNOON SESSION, JUNE 22, 2021

9 (2:15 p.m.)

10 THE COURT: All right. I see everyone is present. Any
11 preliminary matters?

12 MR. AMOLSCH: No, sir.

13 THE COURT: Okay. Ready for the jury? Ira, please.

14 (Jury in at 2:16 p.m.)

15 THE COURT: All right. Please, have a seat.

16 Mr. Amolsch, please continue.

17 MR. AMOLSCH: Thank you, Your Honor, may it please the
18 Court.

19 CONTINUED DIRECT EXAMINATION OF MATTHEW KEKOA LUMHO

20 MR. AMOLSCH: Can we bring up Government's Exhibit 177.
21 Can we go to the bottom of that, Ms. Sandvig, please. Thank you.

22 BY MR. AMOLSCH:

23 Q. Do you recognize this, Mr. Lumho?

24 A. Yes, I do.

25 Q. Okay. What is that?

1 A. That is a service order request form for MacBook Pro --

2 Q. I need you -- I really need you to focus on the
3 microphone.

4 A. Yep. Right. It's hard for me.

5 Q. I know, but -- yeah, just make sure. Okay.

6 A. So it's a service order request form for a MacBook Pro, a
7 Canon camera, an SD card for the camera, Inline dock kit for the
8 MacBook, looks like seven iPads, an XtremeMac charger for the
9 MacBook Pro, remote desktop for the MacBook Pro, and an SD card
10 reader.

11 Q. Does that service order request form contain a lot of the
12 equipment we were talking about just prior to before we went to
13 lunch?

14 A. Yes, it does.

15 Q. After receiving this, did you call and leave a voicemail
16 for Mr. Capallia regarding this service order request form?

17 A. I did.

18 Q. Okay. Tell me about that.

19 A. When I received this service order request form, I do
20 what I always did. I took it to Matthew. Matthew looked at it,
21 and didn't like the way the remarks was, and so he said, "Have
22 it removed." And I did.

23 Q. All right. This references the iPads we were talking
24 about earlier. Is that what's referenced on this service order
25 request form?

1 A. Yes, it is.

2 Q. And what level of iPads are those?

3 A. Those are the iPad 3s.

4 Q. Were they put into use?

5 A. They were.

6 Q. Did Mr. Steiniger have one of those iPads?

7 A. He was. He was assigned one.

8 Q. Did there come a time when it became necessary to
9 purchase Webcams for computers in relation to the Windows 7
10 upgrade?

11 A. Yes.

12 Q. Okay. Tell me about that.

13 A. When we upgraded -- when we upgraded our desktops and
14 laptops to Windows 7, they were a 64-bit, as opposed to a 32-bit
15 operating system. So things that are 32-bit no longer work in a
16 64-bit environment. So the Webcams that we had were only
17 32 bits so we could not get the cameras to work with our new
18 upgraded machines.

19 Q. All right. And did -- did -- did -- were those Webcams
20 cameras ultimately purchased?

21 A. Yes. We bought those purchases.

22 Q. Did you discuss that purchase with Mr. Steiniger?

23 A. Yes, I did.

24 Q. Did the Webcams get delivered?

25 A. Yes, they were.

1 Q. And were they put into use?

2 A. Yes.

3 Q. All right. In June of 2012, was there a time when ISD,
4 your department, needed or arranged to purchase Lenovo laptops?

5 A. Yes.

6 Q. Okay. Tell me about that.

7 A. Well, there was an influx of money. Congress had given
8 the IG an increase funding for more personnel. So I don't
9 recall how many personnel were approved, but -- but we had an
10 influx and a hiring spree of OIG employees.

11 So we tried to maintain in ISD a certain amount of spare
12 laptops for hardware breaks, new employees, but this influx took
13 us through our threshold and through our spare laptops. And so
14 we forecasted that we were going to need a lot more laptops
15 including the ones for the immediate need. But at the time we
16 had like under five laptops left in our spare to give to new
17 employees that were being hired.

18 Q. Did you discuss this purchase with Mr. Steiniger?

19 A. Yes. They came to me about it, yes.

20 Q. Did you discuss it with Mr. Spivey?

21 A. Yes.

22 Q. Okay. Can I show you something real quick?

23 A. Yes.

24 MR. AMOLSCH: Thank you, sir.

25 BY MR. AMOLSCH:

1 Q. Do you recognize that, Mr. Lumho?

2 A. Yes.

3 Q. E-mail to Jeff Hall, to you, and Mr. Spivey, and Matthew
4 Steiniger?

5 A. Yes, it is.

6 MR. AMOLSCH: Move to admit Defense's Exhibit 43, please,
7 Your Honor.

8 THE COURT: Any objection?

9 MR. CARLBERG: No.

10 THE COURT: It's received.

11 (Defendant's Exhibit 43 admitted into the record.)

12 BY MR. AMOLSCH:

13 Q. I want to direct your attention to the top of this
14 e-mail, "Kekoa, Willie has given us the green-light to purchase
15 200 Lenovos from WITS."

16 Do you see that?

17 A. Yes, I do.

18 Q. What was your understanding of the purchase of the
19 Lenovo's using WITS after you saw that e-mail?

20 A. That Willie had given us the green-light to purchase 200
21 Lenovo's from WITS.

22 Q. Did there come a time when that order was ultimately
23 cancelled?

24 A. Yes.

25 Q. And why is that?

1 **A.** Um, the model of the Lenovo laptop that we needed had to
2 be a certain level - it needed to have a certain chip set for
3 our security posture for - it's called HBSS, which is a Host
4 Based Security System, which is required by DoD for us to have.

5 So the chip set on the Lenovo that we needed was a
6 specific chip set. Lenovo told Level 3 they can get it and so
7 we were proceeding with the order. But, ultimately, when they
8 needed it, they couldn't produce what we needed. They could not
9 produce the chip set that we needed. They didn't have any more
10 in stock. Lenovo did not.

11 **Q.** Is that why the order was cancelled?

12 **A.** Yes.

13 **Q.** Did you cancel the order or did somebody else?

14 **A.** I cancelled the order.

15 **Q.** When did you come to learn about whether money had
16 already been paid to Level 3 for those computers?

17 **A.** So the WITS bill comes in, I believe a month or two later
18 after the service order request is signed. So two months later
19 the bill comes, my staff, my billing staff monitors the bills
20 showed me that we had a \$438,000 charge that was not on my
21 SharePoint spreadsheet that I had accounted for.

22 So I reached out to Ron and said, "What gives? We have a
23 \$438,000 charge, and I cancelled that order." And he fixed the
24 problem. He went back and - went back to GSA and on the
25 prev- -- the next bill of that -- that next bill, if it was in

1 May, the next one would be June -- My goodness, I'm having a
2 hard time with my calendar -- but there was a credit of
3 \$438,000. So they didn't return the money to us, they just gave
4 us a credit on our next bill.

5 Q. Had anybody but you noticed the discrepancy between the
6 money that had been gone -- that had been paid to Level 3 and
7 the equipment that had been provided?

8 A. No.

9 Q. Did anybody ask you to go arrange for that refund or
10 credit?

11 A. No.

12 Q. Is that something you did on your own?

13 A. Yes.

14 Q. We mentioned Polycoms earlier. That's the computer
15 brains?

16 A. Yes.

17 Q. Okay. Why was it -- was that something that was mission
18 critical for the Office of the Inspector General?

19 A. It was. We had -- we had about 20 different agents and
20 auditors that were rotating in and out of Southwest Asia, out of
21 Afghanistan and Iraq. In addition to we had folks that were in
22 Kuwait and Qatar.

23 And so the way that our operations staff would meet with
24 them was through VTC. So we had weekly meetings with our staff
25 in Southwest Asia, as well as normal VTC meetings. DCIS would

1 have with their headquarters to all the field offices at a
2 variable rate. But yes, they used them often and cut back on
3 their travel cost of the agency because they can now do meetings
4 over video.

5 Q. Did you ever have a conversation or an e-mail exchange
6 with Mr. Steiniger about using WITS to purchase Polycoms?

7 A. Yes.

8 Q. All right. Let me show you something, Mr. Lumho?

9 MR. AMOLSCH: Thank you.

10 BY MR. AMOLSCH:

11 Q. Let me know when you've read that and reviewed that,
12 Mr. Lumho.

13 A. I -- I remember this, yes.

14 Q. All right. Is this an e-mail exchange you're having with
15 Mr. Steiniger about the VTC Polycoms?

16 A. Yes.

17 MR. AMOLSCH: Your Honor, I move Defense's Exhibit 44,
18 please.

19 THE COURT: Any objection.

20 MR. CARLBERG: No objection.

21 THE COURT: All right it's received.

22 (Defendant's Exhibit 44 admitted into the record.)

23 MR. AMOLSCH: Thank you, Your Honor.

24 BY MR. AMOLSCH:

25 Q. This is an e-mail at the bottom from Steve McClellan at

1 Ultra Criticom. What's Ultra Criticom?

2 A. There were a VTC vendor that did VTC installs.

3 Q. All right. This is an e-mail to you and Barry Atwood and
4 Terry Peck and Delilah.

5 Do you see that?

6 A. Yes.

7 Q. And who did Barry Atwood work for?

8 A. MSO.

9 Q. You say here, "Here is a quote for the VTC installs. I'm
10 already looking at the list and where we can cut the cost. The
11 total right now is \$860,000."

12 Do you see that?

13 A. Yes, I do.

14 Q. What are you -- and then there's all the way at the top,
15 "You are already on your way to the Mark Center I hope." Does
16 that reference -- does that particular line represent trips made
17 back and forth between 400 Army Navy Drive and the Mark Center?

18 A. Yes. This was October 25th, so we were -- the flagpole
19 move had happened, and we were working split between 400 Army
20 Navy Drive and the Mark Center, yes.

21 Q. All right. And isn't this where you're discussing the
22 costs associated with the Polycom machines?

23 A. Yes.

24 Q. All right. Thank you. Are you familiar -- or do you
25 remember, sir, if those Polycom machines were ever ultimately

1 purchased?

2 A. We did end up --

3 Q. -- Can I --

4 THE COURT REPORTER: I'm sorry.

5 THE WITNESS: We did end up purchasing those, yes.

6 MR. AMOLSCH: Can I bring up Government's Exhibit 111B.

7 BY MR. AMOLSCH:

8 Q. Do you recognize this?

9 A. Yes.

10 Q. Do you see where it says, "Senior telecom specialist for
11 Polycom installation"?

12 A. Yes, I do.

13 Q. Do you see the price there of fi- -- 668,820.24?

14 A. Yes.

15 Q. Is that how much these machines ended up costing?

16 A. Yes, they were.

17 MR. AMOLSCH: Let's move to Government's Exhibit 119B.

18 BY MR. AMOLSCH:

19 Q. Do you see the 6129 in the corner there, Mr. Lumho?

20 A. Yes, sir.

21 Q. And now from the bottom, do you see something that says,
22 "DCIN HW"?

23 A. Yes. That's my handwriting.

24 Q. Yeah, what's that?

25 A. That is labeled DCIN hardware. That was hardware we

1 purchased for the COOP, the agent -- the DoD COOP.

2 Q. And tell me -- explain to the ladies and gentlemen of the
3 jury again, what DCIN is as it relates to securing OIG's data at
4 an off-site location?

5 A. So as I described before, the COOP was -- the DoD COOP
6 was in a location north in a secure location. There was a large
7 dark fiber path between the Pentagon and this location. So when
8 we moved to the Mark Center, the Mark Center didn't have that
9 large path to get to the -- to the location north. So this
10 hardware was going to be used to bring the optical fiber into
11 the Mark Center for not just the OIG but for anybody at the Mark
12 Center.

13 So we were kind of the first people that requested it.
14 Most other agencies that were at the Mark Center were already at
15 the Pentagon so they didn't necessarily need the DCIN at the
16 Mark Center. Our entire headquarters were at the Mark Center so
17 we were kind of the first folks that requested to use the DCIN
18 COOP site.

19 Q. And did you need special -- did you need to purchase new
20 equipment in order to get access to that dark fiber in order to
21 back up your data at an off-site location?

22 A. Yes.

23 Q. Who managed the dark fiber -- the dark fiber route to the
24 off-site location? Was that ISD or was in a WHS or who was
25 that?

1 **A.** That was WHS who managed the infrastructure to the
2 location.

3 **Q.** So how were you able to get your data onto W -- the
4 Washington Headquarters Services? How were you able to get your
5 data onto their network in order to back it up?

6 **A.** Through this hardware.

7 **Q.** All right. So let me ask -- this has been previously
8 admitted as government -- Defense Exhibit 21A?

9 MR. AMOLSCH: There's -- Oh, I'm sorry. Thanks.

10 BY MR. AMOLSCH:

11 **Q.** Okay. This is -- show you it's an e-mail from Mark
12 Walker to you and Matthew Steiniger and Brandon Will- --
13 Brandon Williamson. "DoD OIG COOP network components."
14 Do you see that?

15 **A.** Yes.

16 **Q.** Now, in here, there's a discussion of purchasing this
17 equipment through WITS?

18 **A.** Correct.

19 **Q.** What does that mean? What -- what -- what's going on
20 here?

21 **A.** So Mark Walker who was our chief architect who was
22 working with WHS to accomplish this task and had sent me an
23 e-mail asking me if we could get this hardware. And he wrote
24 again saying -- I believe if you move the paper up --

25 **Q.** That way?

1 A. The other way.

2 Q. I'm sorry. Yep.

3 A. "I'm getting a quote from Level 3." So I was getting a
4 quote from Level 3 to purchase it, and Mark is saying, "Awesome,
5 thanks. If we do purchase the equipment through WITS, will it
6 be difficult to sign over the ITA."

7 So as I said prior, WHS was responsible to get us into
8 the Mark Center, and then once we got into the Mark Center, ITA,
9 the Army Information Technology Agency was going to take over --

10 THE COURT REPORTER: Sir, slow down.

11 THE WITNESS: Sorry. The Army Information Technology
12 Agency was going to take over the management of the Mark Center.

13 So when we bought this hardware, Mark was inquiring
14 whether he would it would be a problem to get it off our
15 property book and give it to ITA. So basically just take it
16 from our property accountability book and giving it to ITA.

17 Sometimes that's an issue because property has an issue,
18 but for this instance, it wasn't going to be a problem
19 because -- because we'll see in a -- in a second.

20 BY MR. AMOLSCH:

21 Q. And was this hardware purchased through WITS?

22 A. It was purchased through WITS, yes.

23 Q. And then if you flip to the front of this, there's a
24 discussion with Matthew Steiniger, "Kekoa, Mark, again, about
25 the DCIN issues requesting approximately \$100,000 for funding,"

1 and Matthew Steiniger's comment, "Mr. Wilson is 100 percent on
2 board."

3 Do you see that?

4 **A.** Yes. So Matthew was going to verify with Mr. Wilson
5 that -- doing the property accountable was not going to be an
6 issue because that's under him.

7 **Q.** Was that 100 percent on board also referencing the
8 purchase of the equipment through WITS?

9 **A.** Yes.

10 **Q.** Was that purch- -- and did that -- did that equipment
11 arrive. Did that equipment arrive?

12 **A.** Yes.

13 **Q.** Was it installed?

14 **A.** It was.

15 **Q.** You mentioned HP tapes earlier --

16 **A.** Yes.

17 **Q.** -- in your testimony. Did there come a time when there
18 was a loss of OIG's backup data?

19 **A.** Yes, there was.

20 **Q.** Okay. What was -- what was that about?

21 **A.** Um, the SAND had a, if I recall correctly, there was a
22 corruption on the SAND on our backup data.

23 **Q.** What's a SAND?

24 **A.** Our Storage Area Network where all of our data resides.
25 And then, so there was a -- a -- a -- a significant crash that

1 happened, a -- a -- a corruption that happened.

2 Q. All right. And what was the result of the -- how big of
3 a deal was that?

4 A. That was a very big -- that was a very big deal.

5 Q. Why was that such a big deal?

6 A. Again that's our data where all of our investigative
7 data, all of our audits. That's -- that's -- I think this was
8 right after we moved into the Mark Center, so we were still
9 fresh on not really wanting to have our data there. And then
10 the thing that we didn't want to happen happened. They had a
11 significant failure, and we were living our fear.

12 Q. Was Mr. Wilson made aware of this problem?

13 A. Oh, yes. Many times.

14 Q. Was Mr. Steiniger aware of the problem?

15 A. Absolutely.

16 Q. Was it considered an emergency situation?

17 A. Yes.

18 Q. Did you meet with Mr. Steiniger and Mr. Wilson for the
19 purposes of discussing how to solve this problem?

20 A. Yes.

21 Q. Let me ask you to take a look at this e-mail Mr. Lumho.

22 MR. AMOLSCH: Thank you.

23 BY MR. AMOLSCH:

24 Q. Do you recognize that?

25 A. Yes, I do.

1 Q. Is that an e-mail exchange between you and Mr. Wilson and
2 Mr. Steiniger?

3 A. Yes.

4 MR. AMOLSCH: All right. Move to admit Defense's 45.

5 THE COURT: Any objection.

6 MR. CARLBERG: No.

7 THE COURT: It's received.

8 (Defendant's Exhibit 45 admitted into the record.)

9 MR. AMOLSCH: Thank you.

10 BY MR. AMOLSCH:

11 Q. All right. You see there the bottom of this e-mail --
12 I'm sorry, you're sending this to Mr. Wilson and Steiniger,
13 "We'll know more tomorrow about the impact of this incident."
14 What incident are you talking about?

15 A. The data -- the crash that happened, the backup solution
16 that --

17 Q. "We'll come see you as soon as we assess the impact."
18 What does that mean?

19 A. I informed Mr. Wilson our SES that we will come update
20 him as soon as we figure out what the impact is. This was at
21 10:00 at night.

22 Q. All right. That was at 10:00 at night, and he respond at
23 10:21, telling you where he'll be and also, "Please be prepared
24 to discuss contracts."

25 A. Yes. We could tell our status the next day. Yeah.

1 Q. Did you have a discussion with Mr. Wilson and
2 Mr. Steiniger about contracts?

3 A. Yes.

4 Q. And what was that conversation about?

5 A. About getting these backup tapes for the -- for our data.

6 Q. And what contract did you decide -- was it decided would
7 be used?

8 A. WITS. Well, initially we were going to -- we were so
9 behind the ball that we purchased as many tapes as we could
10 through a \$3,000 -- \$2,500 GPC card.

11 Q. Okay.

12 A. So to kind of stop the bleeding, we bought as many
13 cart- -- backup tapes as we could, which I don't recall how many
14 that was, that might have been six or seven. And the real fix
15 was to buy an additional 2,000 tapes, backup tapes for this.

16 Q. Are you familiar with a woman named Charlene White?

17 A. Yes.

18 Q. Okay. Was she someone who had access to the GPC card?

19 A. She was a GPC card holder.

20 Q. Would that purchase have run through her?

21 A. Yes.

22 Q. Is that how you remember that purchase happening?

23 A. The initial, yes.

24 Q. And -- and did Matthew -- did you and
25 Matthew Steiniger -- were you in contact about when these tapes

1 would arrive?

2 A. Yes.

3 Q. How quickly they could get there?

4 A. Everybody was anxious to get these tapes because we
5 were -- we were trying not to copy over tapes that had data on
6 it, old tapes.

7 Q. All right. I'm going to show you another e-mail,
8 Mr. Lumho.

9 MR. AMOLSCH: Thank you.

10 BY MR. AMOLSCH:

11 Q. Take a look at that and let me know when you're ready.

12 A. I remember this.

13 Q. All right. Is this e-mail exchange between and you
14 Matthew Steiniger and Thomas Wedige?

15 A. Wedige.

16 Q. Wedige. Who is Thomas Wedige?

17 A. He was an executive at WHS.

18 Q. All right. And is this e-mail in reference to the HP
19 tapes we were just talking about?

20 A. Yes.

21 Q. Okay.

22 MR. AMOLSCH: Your Honor, I move Defense's Exhibit 46.

23 MR. CARLBERG: No objection.

24 THE COURT: Received.

25 (Defendant's Exhibit 46 admitted into the record.)

1 BY MR. AMOLSCH:

2 Q. All right. The first e-mail at the bottom of this string
3 is an e-mail from Donny Ravas to you and Billy Hall.

4 Who is Billy Hall?

5 A. He was an MSO person. I don't know who he was.

6 Q. Okay. And, "Kekoa, here is the status regarding the
7 tapes." This is from Donny to you.

8 Which tapes is he referring to?

9 A. These are the backup tapes that we were -- that purchased
10 for this backup failure.

11 Q. "The 2000 HP tapes were received at approximately 11:15
12 this morning at our warehouse."

13 Who's warehouse is he talking about?

14 A. I assume Donny's warehouse.

15 Q. "All equipment was assigned control numbers and
16 processed. These tapes are scheduled for delivery the first
17 thing in the morning."

18 A. Yes. So the control numbers are the ones that we had a
19 hard time getting stuff up from there.

20 Q. And so were these tapes delivered off-site to Donny Ravas
21 for him to bring into the Mark Center?

22 A. It appears so, yes.

23 Q. Did you then copy Mr. Steiniger?

24 A. Yes.

25 Q. Okay. And then he copies you and Thomas --

1 A. Wedige.

2 Q. Wedige. "Tom heads up you're about to be the proud
3 recipient of a lot of tapes?"

4 A. Correct.

5 Q. And those are the tapes that were acquired through WITS?

6 A. Yes. These are the tapes from WITS, yes.

7 Q. Did there come a time when Office of the Inspector
8 General needed to rearrange furniture and various desks with
9 inside of the Office of the Inspector General?

10 A. Yes.

11 Q. Was that referred to as the "restack"?

12 A. Yes, it was a restack.

13 Q. Okay. Tell the ladies and gentlemen of the jury a little
14 bit about the restack?

15 A. So the restack, when we were -- when BRAC 133 first
16 started, we were at 1800 employees at the OIG. Two-and-a-half
17 years later when we are actually moving to the Mark Center we
18 are at like 2100 employees of the OIG. So we had to kind of fit
19 into our -- the space didn't change. So it was built based off
20 of three-year-old numbers. So when we moved in we had to start
21 sorting our folks into different spaces.

22 And once we got in and we were sort of established, we
23 worked out with WHS to get more space at the Mark Center so we
24 then had to what we call restack. We had to shift people around
25 to separate components and to give people more space.

1 Q. All right. And were you part of the planning process for
2 that?

3 A. I was a vote, yes.

4 Q. Did you have meetings about that?

5 A. Yes.

6 Q. Was Tony Jenks part of those meetings?

7 A. He was.

8 Q. Was Donny Ravas part of those meetings?

9 A. He was.

10 Q. Were Donny Ravas and Tony Jenks in the same meeting?

11 A. Yes, they were.

12 Q. How many times?

13 A. Half a dozen times at least.

14 Q. I want to show you what's been previously admitted as
15 Defense's Exhibit 28. Do you see that's an e-mail from
16 Matthew Steiniger to Jeffrey Hall, Anthony Jenks, Kekoa Lumho,
17 Delilah Lumho, and Brandon Williamson on June 12th.
18 Do you see that?

19 A. Yes.

20 Q. "Kekoa, not sure about GDIT." What's GDIT?

21 A. General Dynamics Information Technologies. It's -- it's
22 General Dynamics --

23 Q. I'm sorry. "But obviously we can get this support via
24 WITS?"

25 A. Right, Matthew says, "Obviously, we can get the support

1 via WITS."

2 Q. And what is he referring to? What support?

3 A. Getting the movers to move our IT equipment. The users
4 IT equipment from space A to space B.

5 Q. Using WITS to handle ISD's portion of the -- WITS -- of
6 the restack?

7 A. Correct.

8 Q. And what did you take from that regarding whether you
9 could use WITS -- for the purposes of the restack?

10 A. That it was going to be -- it was approved to use WITS.

11 Q. Last e-mail I want to talk to you about, Mr. Lumho is
12 SmartNet.

13 A. Okay.

14 Q. Cisco SmartNet. Can you explain to the ladies and
15 gentlemen of the jury what the SmartNet maintenance program is?

16 A. Sure. So Cisco equipment is very expensive, networking
17 equipment, and it is a -- you can -- you purchase a maintenance
18 contract with it so that if anything happens, if you're in the
19 federal government or you have mission critical devices,
20 SmartNet is a maintenance plan for all your hardware, all your
21 routers and switches, your Voice over IP, voice handling. So
22 that if anything ever happened to the hardware, one, it could be
23 replaced within four hours, if that's what your SLR is your
24 Service Level Agreement is, or you can continue getting security
25 patches for your equipment.

1 If you didn't have SmartNet you don't get -- you don't
2 get software support. So if there's a vulnerability on one of
3 your Cisco firewalls or your routers which happened often, you
4 don't get an upgrade for the routers.

5 So it was extremely important for us to have maintenance
6 on our Cisco equipment, including our phones -- all of our Cisco
7 equipment which there was quite a bit.

8 **Q.** Now, had you had previous discussions with Mr. Steiniger
9 about using WITS to purchase some of these Cisco maintenance
10 programs?

11 **A.** Yes.

12 **Q.** Okay. Were some of those programs available on WITS or
13 were they -- the larger SmartNet contract, was that available on
14 WITS?

15 **A.** Um, yes.

16 **Q.** Um, so, did there come a time when one of the maintenance
17 contracts on your Cisco equipment expired?

18 **A.** Yes.

19 **Q.** Okay. Tell me, were there multiple different maintenance
20 contracts floating around, or was it all one big maintenance
21 contract?

22 **A.** So to sum it up, when you purchase through GSA, we would
23 buy, let's say 15 routers this year and another 15 routers next
24 year. Every year you renew your maintenance contract, and each
25 time you purchased an order of Cisco equipment they give you a

1 new contract number.

2 So then you had to manage 30 or 40 contract numbers
3 associated with each router. It became really a complicated
4 thing to call Cisco and say, "I have a Cisco router that just
5 crashed." "What's your contract number?" And we would have to
6 go figure out which contract it is based off the purchase order
7 that we did in the past.

8 So we wanted to use WITS to purchase a single SmartNet
9 maintenance contract with all of our serial numbers of every
10 Cisco device that we had. One contract number for all of our
11 devices. And so we had a discussion with Matthew and Brandon
12 about doing that.

13 Q. Okay. So who is Brandon Williamson?

14 A. He is in charge of the IT business operations.

15 Q. And who is Mark Walker?

16 A. He is our chief architect.

17 Q. Was he involved in the purchase of the Cisco SmartNet?

18 A. Yes.

19 MR. AMOLSCH: This one here. Thank you. Good, sir.

20 BY MR. AMOLSCH:

21 Q. Do you recognize that Mr. Lumho --

22 A. I'm sorry --

23 Q. -- when you're ready?

24 A. I do, yes.

25 Q. All right. And is this a discussion amongst yourself,

1 Mark Walker, and Brandon Williamson about Cisco SmartNet and
2 with the WITS contract?

3 A. Yes, it is.

4 Q. Was this e-mail ultimately and the information here in
5 ultimately provided to Matthew Steiniger?

6 A. Yes, it was.

7 MR. AMOLSCH: Your Honor, I move Defense's Exhibit 48 --
8 47.

9 THE COURT: Any objection?

10 MR. CARLBERG: No, sir.

11 THE COURT: Received.

12 (Defendant's Exhibit 47 admitted into the record.)

13 BY MR. AMOLSCH:

14 Q. All right. So let's start at -- let's start at the back
15 of this e-mail. So the beginning of this e-mail is from you to
16 Jennifer Paper and Brandon Williamson.

17 Do you see that?

18 A. Yes.

19 Q. Okay. Breakdown of hardware and line item numbers and
20 invoice dates.

21 Do you see that?

22 A. I'm not sure. I'm trying to --

23 Q. I'm sorry. I apologize, I moved it too quick.

24 A. Yes.

25 Q. Okay. Do you see that? All right. And does that refer

1 back to information on the back of the e-mail?

2 A. Yes, it did. But this is the breakdown that the
3 comptroller's office wanted for the hardware and software
4 purchase from WITS.

5 Q. Okay. And you provided that -- you were providing that
6 to Jennifer Paper?

7 A. Yes.

8 Q. There was then an e-mail message back from
9 Brandon Williamson to you and Mark Walker, WITS equipment
10 orders, and it says here, "We are not to proceed with the Cisco
11 smart maintenance order. It has not been funded."
12 Do you see that?

13 A. Yes, I do.

14 Q. So what did -- what did -- what do you understand is going
15 on there?

16 A. That Jennifer Paper had -- had said that there was no
17 funding right now for the SmartNet contract.

18 Q. Okay. So was that going to put that purchase on hold?

19 A. Again, it says, "Regarding the WITS purchases." So that
20 there was no funding for the SmartNet through WITS, right. So
21 the funding -- so the purchase was put on hold, yes.

22 Q. Okay. And that was -- just to make sure I understand,
23 was Jennifer Paper telling you there was not money to purchase
24 this, right?

25 A. Correct.

1 Q. Okay. So after that, did Mark Walker send you an
2 explanation about why we needed the WITS in order to get the
3 expired maintenance contract renewed quickly?

4 A. Yes.

5 Q. All right. And did he ask you to review this?

6 A. Yes.

7 Q. Okay. And it says -- do you see where it says,
8 "Explanation for using WITS to renew Cisco maintenance
9 contract?"

10 A. Yes. Above one, yes.

11 Q. "The maintenance contract needs to be renewed quickly
12 ASAP because our existing maintenance contract has expired. We
13 currently have no support or licensing for our critical
14 operational systems including our phone system and field site
15 connectivity devices." That's Brandon Williamson to you?

16 A. That's -- that's Mark Walker to me --

17 Q. -- Mark Walker to you. Was that -- is that accurate?

18 A. Yes.

19 Q. Okay. So is this Mr. Walker's explanation to you about
20 why WITS is important to purchase this maintenance program?

21 A. Yes.

22 Q. What did you do with this information after you received
23 it from Mr. Walker?

24 A. I responded to him that that's accurate. And I once was
25 approved to -- to use WITS, or that the money was there,

1 requested for a service order request from Ron Capallia.

2 Q. And, ultimately, this order was approved and delivered?

3 A. Yes.

4 Q. Was Cisco SmartNet put in place?

5 A. One single contract number for all of our Cisco devices,
6 yes.

7 Q. All right. Who is Althea Williams?

8 A. She was an auditor that worked in the Comptroller's
9 office.

10 Q. Okay. Was she a financial manager, do you know?

11 A. She was a financial manager. She was originally hired as
12 an auditor, but then I think they had a request to have an
13 auditor in the Comptroller's Office. And so Althea volunteered
14 to move to Comptroller's -- the Comptroller's Office.

15 MR. AMOLSCH: Okay. Can I bring up Government's
16 Exhibit 244?

17 BY MR. AMOLSCH:

18 Q. Okay. Do you see this Mr. Lumho?

19 A. Yes.

20 Q. Okay. So this is an e-mail from Althea to you,
21 Matthew Steiniger, Brandon Williamson, and Cristina Bucher
22 regarding an audit being performed on the WITS orders.
23 Do you see that?

24 A. Yes.

25 Q. Okay. What do you understand her to be asking you to do

1 in that e-mail?

2 A. They're asking for a contract agreement that we have in
3 place to support the obligation. So they're -- they're -- she
4 was looking for paperwork.

5 Q. Was she looking for paperwork about orders placed against
6 the WITS contract in 2012?

7 A. Yes. All of our WITS orders for 2012.

8 Q. Now, did you keep that information on hand?

9 A. I had some of them on hand.

10 Q. Did you reach out to Mr. Capallia to see what he could
11 provide you?

12 A. I double check- -- I wanted to verify what I had was all
13 my orders. So, yes. I reached out to Ron Capallia to ask him
14 to send me all the orders that we placed for 2012.

15 Q. All right. Then this e-mail is sent Thursday, October
16 11th at 2:27.

17 MR. AMOLSCH: Can I go to Government Exhibit 246. All
18 right. Can I go to the bottom of this e-mail?

19 BY MR. AMOLSCH:

20 Q. All right. This is an e-mail from you to
21 Matthew Steiniger. "Do you have time to look at these orders
22 before I send it to them."

23 MR. AMOLSCH: Okay. Can we go to the front page.

24 BY MR. AMOLSCH:

25 Q. All right. Do you remember saying that?

1 **A.** Yes, I do.

2 **Q.** Okay. And do you see where Mr. Steiniger responds,
3 "Yes"?

4 **A.** Yes, at 9:13.

5 **Q.** Yes. Did you have any conversations with Mr. Steiniger
6 after 9:13 p.m. regarding the invoices that you sent him for his
7 review?

8 **A.** Yes. We spoke on the phone.

9 **Q.** Okay. Tell me about that conversation.

10 **A.** We had a conv- -- a phone conversation about the orders.
11 And I don't know if we necessarily went through all the orders,
12 but we had a phone conversation about these orders before I was
13 going to send them to the Comptroller's office.

14 **Q.** And why did you reach out to Mr. -- why did you send
15 these to Mr. Steiniger before you send them on to
16 Althea Williams?

17 **A.** He's my leadership. He's my leadership, so he approved
18 them with me.

19 **Q.** Okay.

20 MR. AMOLSCH: So then if I can bring up Government's
21 Exhibit 247.

22 BY MR. AMOLSCH:

23 **Q.** October 12th. This is an e-mail sent a little after
24 midnight it appears on February 12th, 2012.

25 Do you see that --

1 A. Yes.

2 Q. -- October 12th, 2012?

3 A. Um-hmm.

4 Q. In-between the time of the first e-mail and this e-mail
5 at 12:14 a.m., is this when your conversation with Mr. Steiniger
6 happened?

7 A. Yes.

8 Q. How long did that conversation last, if you remember?

9 A. An hour. 45 minutes.

10 Q. So you are then sending this information as well to the
11 people listed in the e-mail chain.

12 Who is Joan Deem?

13 A. Joan Deem was our comptroller.

14 Q. And who's Marlin Molena?

15 A. He was the comptroller's deputy, I believe.

16 Q. And then Tommie Sendsook?

17 A. She was a budget analyst, I believe was what her title
18 was.

19 Q. Santiki Sanders?

20 A. Another budget analyst.

21 Q. And with Althea Williams, and Cristine Bucher, and
22 Matthew Steiniger. And so, is this basically the same
23 information that you provided to Mr. Steiniger just now being
24 forwarded on?

25 A. Yes.

1 Q. Okay. Was there a conference call the next day among the
2 auditors discussing the invoices that you provided?

3 A. Yes, there was.

4 Q. All right. Were you part of that phone call?

5 A. I was not part of the phone call.

6 Q. Was Matthew Steiniger part of that phone call?

7 A. Yes, he was.

8 Q. Did he call you afterwards and tell you what happened as
9 a result of that conference?

10 A. Yes, he did.

11 Q. Without telling me what he told you, how did you come
12 away from that conversation with Mr. Steiniger about whether
13 there was a problem with any of these invoices?

14 A. There was no problem.

15 Q. All right. Based on that conversation, what was your
16 understanding about whether you had done anything wrong with the
17 WITS contract?

18 A. Nothing. That --

19 Q. None?

20 A. None.

21 Q. In November of 2012, did Mr. Steiniger write his review
22 of you?

23 A. Yes, he did.

24 Q. An annual review?

25 A. Um-hmm.

1 Q. How would you characterize that review?

2 A. Excellent. I always had exceeded.

3 Q. At the time of that review, was Mr. Steiniger aware of
4 the way you had been using the WITS contract?

5 A. For sure.

6 Q. Had he been aware the entire time?

7 A. Yes, he was.

8 Q. Was it ever your intention to defraud the government with
9 any of these orders?

10 A. No.

11 Q. Let's talk a little bit about Fidel. How long has he
12 lived with you?

13 A. Since 2011.

14 Q. About ten years?

15 A. Yes.

16 Q. And I believe you said he came to live with you after
17 having a break up in Mexico with a girlfriend?

18 A. Yes.

19 Q. Would you describe him as a proud man? How would you
20 describe his personality as it relates to work?

21 A. He's very proud.

22 Q. Okay. Was it -- did you have conversations with him
23 about him wanting to be employed?

24 A. Yes.

25 Q. Okay. Did he come to you with those conversations? Did

1 you go to him with these conversations?

2 How did that happen?

3 A. He came to me.

4 Q. Did you encourage him to get a job?

5 A. Yes.

6 Q. Okay. And why is that?

7 A. Um, he is a -- how -- I don't want to say a worry-wart,
8 but he carries a lot of pride on himself, and him sitting
9 stagnant at home like he was doing in Mexico was eating away at
10 him.

11 Q. All right. Did you reach out to anybody about helping
12 Fidel find a job?

13 A. I did.

14 Q. Who did you call?

15 A. I -- well, I -- in a conversation --

16 Q. Who did you have a conversation with? Sorry.

17 A. In a conversation with Barry Atwood, that -- the -- the
18 need for a job that -- somebody to help Barry or somebody came
19 up.

20 Q. Okay. And did you -- and was it your suggestion to Barry
21 that Barry interview Fidel or hire Fidel or was that his
22 suggestion to you?

23 How did that happen, if you remember?

24 A. I don't remember specifically, but I know that I talked
25 with Barry about my father-in-law needing a job.

1 Q. Were there other people at the Office of the Inspector
2 General who were -- who had relatives working for MSO at that
3 time?

4 A. Yes, there was.

5 Q. Who is Lyle Rasnick?

6 A. Lyle Rasnick was the chief of our server integration
7 team.

8 Q. And did he have a brother named Thayer?

9 A. He did. He had a younger brother named Thayer.

10 Q. And did Thayer work for MSO?

11 A. Thayer worked for MSO under -- I'm not sure if he worked
12 directly under his brother but he worked within ISD. Thayer was
13 a technician.

14 Q. So --

15 THE COURT: Let's be careful about the leading. This is
16 all leading.

17 MR. AMOLSCH: I'm sorry, Your Honor.

18 THE COURT: Yes, sir.

19 THE WITNESS: So nobody ever -- there was never an issue.

20 THE COURT: Please wait for a question.

21 MR. AMOLSCH: I'm trying to rephrase my question, Your
22 Honor.

23 THE WITNESS: I'm sorry.

24 MR. AMOLSCH: Thank you.

25 BY MR. AMOLSCH:

1 Q. When you recommended Fidel, or when Fidel expressed
2 interest in working for MSO, did that cause you any concern?

3 THE COURT: I'm sorry. Did he say that? Did he just
4 testify to that? Did I miss that?

5 MR. AMOLSCH: I -- I lost track of the question, Your
6 Honor, when you told me not to lead, so I was just trying to go
7 back to the question.

8 THE COURT: Okay. All right.

9 BY MR. AMOLSCH:

10 Q. Did that cause you any concern with Fidel working for MSO
11 while you were working at the Office of the Inspector General?

12 A. So I didn't think Fidel was getting a job with MSO.

13 Q. Okay. What did you think?

14 A. I was clear with Barry that I didn't want Fidel working
15 with MSO because of any sort of conflict of interest. And Barry
16 had friends and knew folks that had companies and so I threw it
17 out there for him to find Fidel a job if he -- if he could.

18 Q. We talked a little bit about where you were in January
19 2012, end of January 2012. Do you remember where you were?

20 A. I was in South Korea in January.

21 Q. And when you came back what did you discover about
22 Fidel's employment?

23 A. That he had received employment.

24 Q. Did you help him with that application?

25 A. No.

1 Q. Did you fill out any paperwork?

2 A. No.

3 Q. Did you have any discussions with MSO about hiring Fidel?

4 A. No.

5 Q. Okay. Who did all that, if you know?

6 A. I'm not sure.

7 Q. Okay. Did there come a time when you learned that Fidel
8 actually wasn't working with MSO as soon as he would have liked?

9 A. So he in a conversation told me that he hasn't received a
10 phone call, he hadn't received a phone call.

11 Q. Okay.

12 A. And I went to Barry shortly after that, I don't know how
13 much shorter, but maybe later that week, the next time I saw
14 Barry I said, "Hey, I don't know who got Fidel a job, but tell
15 him they need to call him."

16 Q. Okay. Did you have any other quest- -- did you have any
17 other discussions with Barry Atwood about Fidel's employment
18 after that conversation?

19 A. All Barry said was that, "He was on call and they're
20 going to call him."

21 Q. All right. Did you have any more conversations with
22 Fidel about this -- the on-call nature of this job?

23 A. I just told him, "They're going to call you. You're on
24 call. They're going to call you. Have your phone with you."

25 Q. All right. Did you -- did you know where Fidel was going

1 in the morning?

2 A. I had no idea.

3 Q. All right.

4 A. I worked -- I mean, I worked very early in the morning
5 and got home later in the evening and I -- as you can hear,
6 there was a lot going -- there was a lot going on at work that I
7 was dealing with on my own.

8 Q. Did there come a time when you took Fidel to the Navy
9 Federal Credit Union to open up a bank account with him -- for
10 him?

11 A. Yes.

12 Q. Open a bank account?

13 A. Yes.

14 Q. How did that -- why did you do that?

15 A. He needed help transferring money from his Golden One
16 account, which is at a bank in California. And he was always
17 asking for somebody -- for myself or Delilah to help him log
18 into his Golden One. And so I'm like, "Just get an account here
19 locally so you can just drive over there and talk with somebody
20 else who can help you."

21 Q. All right. Did you suggest Navy Federal Credit Union, or
22 how did that happen?

23 A. No, I suggested it. They're a bank right there not too
24 far from my house that is a credit union that I belong to. And
25 since I'm a member I'm able to get him -- I'm able to get him a

1 membership there as a relative.

2 Q. All right. Did you go with Fidel to the bank?

3 A. I did.

4 Q. All right. Did you help him with the paperwork?

5 A. I did.

6 Q. Did you help him open the account?

7 A. I did.

8 Q. Now, was this an account in Fidel's name only, or was it
9 a joint account?

10 A. It was just Fidel's account.

11 Q. All right. Is that the way he wanted it?

12 A. I assume so. I -- I -- I wasn't going to do a joint
13 account for him.

14 Q. But did you have access to that account?

15 A. I did, yes.

16 Q. Okay. And why is that?

17 A. Because, again, his computer literacy was -- is still --
18 my -- my -- my ten-year-old son has more computer literacy than
19 Fidel does. So if he needed to log in to see how much money he
20 had in the account, he would still drive to the ATM to check his
21 balance. And so I showed him. Just use your access code to log
22 in and see how much you got. Log in and see how much money you
23 have in there, for example.

24 Q. Did Fidel receive checks at the house?

25 A. He did.

1 Q. Okay. And did you open those checks and see them?

2 A. I didn't open them, no.

3 Q. But did you see the checks that Fidel received?

4 A. I did, yes.

5 Q. Okay. And what did it say on the top of the checks?

6 A. FrankCrum.

7 Q. FrankCrum. And what did you understand by looking at the
8 checks that said FrankCrum on them? What did you understand
9 about Fidel employment.

10 A. So, again, at that time my state of mind and where I was
11 at that time I assumed he had a job at FrankCrum.

12 Q. All right. Did you have any conversations with him about
13 it?

14 A. No.

15 Q. All right. Did you sign some of the checks, his
16 FrankCrum checks before depositing them into Fidel's account?

17 A. I did.

18 Q. Okay. Did Fidel sign some of those checks before they
19 were deposited into Fidel's account?

20 A. Yes, he did.

21 Q. All right. Why -- why were there occasions when you
22 would sign the back of the checks versus Fidel?

23 A. If I was going to Wal-Mart down the street and a check
24 came in, I would tell Fidel, "Hey, I'll deposit your check."
25 And so I would open it and sign it and take it to the Navy

1 Federal Credit Union right next door to Wal-Mart and deposit the
2 account -- deposit it.

3 Q. Did you ever forge Fidel's signature, or did you sign it
4 with your own name.

5 A. I had to sign my own name.

6 Q. Would it have been easier for you if Fidel just had
7 direct deposit?

8 A. Easier for me to deposit it, yeah.

9 Q. Deal with his accounts?

10 A. Yes.

11 Q. Why did Fidel receive paper checks as opposed to having
12 the money just directly deposited into his account?

13 Do you know?

14 A. I have no idea.

15 Q. Okay. Did you ever trans- -- did you ever transfer money
16 out of Fidel's account for things like living expenses and debts
17 on credit cards?

18 A. Yes.

19 Q. Did you always -- did you ever do that without his
20 permission?

21 A. He always knew that I was doing it.

22 Q. Okay. Was it something that he wanted to have happen?

23 A. Yes.

24 Q. All right. And you mentioned filing taxes on behalf of
25 Fidel.

1 Do you remember that?

2 A. Yes.

3 Q. Okay. And did you file taxes -- help Fidel file taxes
4 for the money he earned in 2012?

5 A. I did.

6 Q. Okay. And those taxes would have been filed in 2013?

7 A. Correct.

8 Q. All right.

9 MR. AMOLSCH: Can I bring up Government's Exhibit 648,
10 please. Is this in? Mr. Burke, do you know?

11 MR. BURKE: Yes.

12 MR. AMOLSCH: I'm sorry.

13 MS. SANDVIG: Yes, it's in.

14 MR. AMOLSCH: It's in. It's been previously admitted,
15 Your Honor.

16 THE COURT: All right.

17 BY MR. AMOLSCH:

18 Q. Is this the W-2 that you saw that you used to help Fidel
19 file his taxes?

20 A. Yes, that's it.

21 Q. Do you see where it says employer name?
22 What does it say?

23 A. It says FrankCrum 1, Inc. as employer.

24 Q. FrankCrum 1, Inc. Is that consistent with the name and
25 identification that appeared on the checks that Fidel received?

1 A. Yes.

2 Q. What was your impression about where Fidel was working?

3 A. FrankCrum.

4 Q. Did there come a time when Fidel got a DUI?

5 A. Yes.

6 Q. Or driving while intoxicated charge?

7 A. Yes.

8 Q. All right. Did he -- did -- was there a lawyer to
9 represent Fidel?

10 A. Yes.

11 Q. Okay. And who paid for that lawyer?

12 A. I did.

13 Q. Okay. Do you remember the name of the lawyer, who it
14 was?

15 A. Rod Leffler.

16 Q. And you paid Mr. Leffler on behalf of Fidel?

17 A. Yes.

18 Q. Did you pay that with your own funds or the money -- or
19 use some of the money from Fidel's account?

20 A. I paid for it with my own money first.

21 Q. Did you go with Fidel -- did you go to court with Fidel
22 on the day of his court date?

23 A. I did not.

24 Q. Okay. Were you there for any part of the proceedings.
25 Did you even stay outside of the courthouse?

1 **A.** No. I went and picked him up after, the morning after it
2 happened, but -- and then I got an attorney for him. And, no, I
3 was not there at court.

4 **Q.** You said you picked him up you mean from --

5 **A.** From the lock up, yes.

6 **Q.** From the lock up. Got him an attorney and that was it?

7 **A.** Yep.

8 **Q.** Do you know who paid Fidel's court costs?

9 **A.** I know now based on --

10 **Q.** Okay.

11 **A.** -- what I've seen but at that time --

12 **Q.** Did Fidel have to go through alcohol classes as a part of
13 his DWI?

14 **A.** He did.

15 **Q.** Okay. Who paid for those?

16 **A.** I did.

17 **Q.** Did -- because of the nature of Fidel's DWI, was he
18 required to drive a car with an ignition interlock system on it?

19 **A.** I had to put an interlock system on my -- Fidel doesn't
20 have a car, so he was using my -- one of our cars, yes. So I
21 had to put an interlock on one of our cars, yes.

22 **Q.** And who paid for that?

23 **A.** I did.

24 **Q.** Fidel lives with you. Have you ever asked him to lie on
25 your behalf?

1 A. Never.

2 Q. Have you asked him ever to not come to this courthouse?

3 A. No.

4 Q. Have you ever put any pressure on him at all regarding
5 any statement he has made to this jury, Judge O'Grady, any
6 agent?

7 A. The only thing I ever told Fidel about this whole thing
8 is just be honest.

9 Q. And does he still live with you and your family?

10 A. He does.

11 MR. AMOLSCH: If I could bring up Government Exhibit 622.

12 BY MR. AMOLSCH:

13 Q. Do you recognize this Mr. Lumho?

14 A. Yes.

15 Q. And what is that?

16 A. That is the OGE450 form.

17 Q. I mean, what is that in real language?

18 MS. SANDVIG: It's not in.

19 MR. AMOLSCH: Oh, it's not in? I ap- -- which one -- is
20 it 1102 that's in?

21 MR. BURKE: Yeah.

22 MR. AMOLSCH: Okay. 1102. That's the one that's in?

23 MR. BURKE: Yeah, that's it.

24 BY MR. AMOLSCH:

25 Q. Okay. I'm sorry, Mr. Lumho. 1102. Is that the same

1 form we were looking at before?

2 A. Yes.

3 Q. It says, "Financial Disclosure Report."

4 A. Yes.

5 Q. What is a financial disclosure report as you understand
6 it?

7 A. It is a -- it's a form that we have to fill out as a
8 supervisor. In the government you have to disclose any
9 financial investments you have.

10 Q. Are there instructions that go along with these forms?

11 A. Yes.

12 Q. Okay. Did you read the instructions before you filled it
13 out?

14 A. Yes, you have to.

15 Q. Um, based on your reading of the instructions, what are
16 the types of inform- -- income, non-investment income you're
17 required to provide as part of this financial disclosure form?

18 A. Um, any investments you have, any salaries you're paid by
19 another company, any -- any interest you have in other
20 companies.

21 Q. Okay. All right. Fees and salaries you said?

22 A. Yes.

23 Q. Like sales commissions?

24 A. Yes.

25 Q. Retirement benefits?

1 A. Retirement benefits, yes.

2 Q. Did you receive any of those from Fidel?

3 A. No, I did not.

4 Q. There are instructions that come along in terms of the
5 non-investment income that set forth the kinds of funds you
6 don't have to report. Do you remember reading those
7 instructions?

8 A. I do.

9 Q. Do you remember what those instructions said about
10 whether you are -- the form is looking for any money given to
11 you by a relative?

12 A. So you don't have to claim any of that. My dad lives
13 with me, so I've gone through the ethics and spoken with ethics
14 folks about this form because every job I've had, or every
15 agency I've gone to it's always been a -- this isn't a very easy
16 form to fill out because it's not really clear. So I know I
17 don't have to claim anything that a relative gives me.

18 Q. Okay. Like --

19 A. Rent or anything.

20 Q. You mentioned your father. Tell me about that.

21 A. So my dad because of Vietnam he was exposed to Agent
22 Orange and he ended up getting cancer in 2016, '16. He ended up
23 having marrow breast cancer that metastasized into his lymph
24 nodes.

25 So he was living in Ocean City, Maryland at the time, and

1 he was being treated at Fort Belvoir. So him and his girlfriend
2 came to live with me for a year and a half before he passed away
3 at my house.

4 Q. All right. And did he -- did he give you money towards
5 living expenses and rent and things like that?

6 A. He did, yes.

7 Q. Okay. Is that the kind of thing that is required to be
8 put on this financial disclosure form?

9 A. I do not have to claim that, no.

10 Q. Did Fidel contribute to the living expenses and operating
11 expenses of the house?

12 A. Yes, he does.

13 Q. Based on your understanding, did you have to report that
14 kind of income on this form?

15 A. No, I did not.

16 Q. The last thing I want to ask you about Mr. Lumho is your
17 participation in the technical review board in March of 2012.
18 Do you remember participating in that technical review board?

19 A. I do.

20 Q. Okay. And what was the purpose of that technical -- your
21 participation in that technical review board?

22 A. So the EES contract that I believe we talked about
23 earlier was protested. It was awarded to Phacil. This was in
24 October of 2011. It was protested so GSA stopped our work and
25 this bridge contract was put in place as a stopgap.

1 Fast forward to the middle of 2012 or early 2012, GSA
2 wanted us to reevaluate all five companies that put in bids.
3 And do a technical evaluation of the bids again and be more
4 precise on -- on what we selected.

5 Q. All right. And did you participate in that technical
6 review board?

7 A. I was one of three, yes.

8 Q. Who were the other two members?

9 A. Well -- there was four of us. Willie Spivey was the lead
10 in acquisitions but the voting members were myself,
11 Matthew Steiniger and Ricardo Farrerah.

12 Q. During that review board, did all of you discuss the
13 merits of the various proposals?

14 A. Um, we initially were instructed to do it in a bubble and
15 not -- not discuss what our ratings were going to be. But after
16 we came up with our own evaluation, we met multiple times, yes,
17 concerning what we -- our ranking was.

18 Q. Now, were you aware at the time you were conducting this
19 technical review evaluation that Mr. Wilson was one of the
20 companies submitting a bid?

21 A. Yes.

22 Q. Okay. Which company was he submitting a bid in
23 conjunction with?

24 A. So on AIS's bid on the cover sheet was AIS and MSO
25 contract bid for the contract number 9Q, whatever it was, "F"

1 something. So it was on the cover page that MSO was partnered
2 with AIS.

3 Q. All right. After reviewing the bid from Phacil and from
4 AIS, MSO, did you have an opportunity to then rank these
5 companies in terms of which company you thought would provide
6 the best -- best -- best value to the government?

7 A. Yes.

8 Q. Let me show you what's been previously admitted as
9 Defense Exhibit --

10 MR. AMOLSCH: Court's indulgence --

11 (Discussion held off the record between Counsel.)

12 MR. AMOLSCH: Eleven. It's Defense Exhibit 11.

13 BY MR. AMOLSCH:

14 Q. Do you see this where it says AIS --

15 A. Yes.

16 Q. -- at the top. And that's AIS MSO we're talking about?

17 A. Yes, it is.

18 Q. Do you see to the right there are rankings?

19 A. Yes.

20 Q. Okay. Who is K?

21 A. That would be myself.

22 Q. And who is R?

23 A. Ricardo.

24 Q. And who is M?

25 A. Matthew.

1 Q. Okay. And next to it is an overall, right?

2 A. Correct.

3 Q. Now, on in this technical review board being one is --
4 where one is the highest and five is the lowest, how did you
5 rank Mr. Wilson's firm in providing the best value to the
6 government?

7 A. I ranked them, AIS at number two.

8 Q. Number two. At the time you ranked Mr. Wilson's company
9 a two --

10 MR. CARLBERG: Objection, Your Honor. That misstates the
11 record. AIS is not Mr. Wilson.

12 MR. AMOLSCH: I'm sorry. I apologize, AIS.

13 BY MR. AMOLSCH:

14 Q. At the time that you ranked AIS number two, were you
15 aware that the value of the bid was \$31,733,000?

16 A. Yes, I did.

17 Q. Can you tell us briefly -- explain to the ladies and
18 gentlemen of the jury why you selected Phacil as the company
19 offering the best value to the government?

20 A. After reviewing their Statement of Work, Phacil offered
21 better quality -- it was a better quality bid. They had better
22 retention, better history, past history, and had a better value
23 cost-wise.

24 Q. It says here that R actually ranked AIS number one.

25 A. Correct. Ricardo ranked them a one, overall.

1 Q. All right. So somebody thought they were the best value?

2 A. Ricardo thought they were the best value, correct.

3 Q. This is my final series of questions for you, Mr. Lumho.

4 At any time did you ever take a bribe from Mr. Wilson?

5 A. Never.

6 Q. At any time, did you ever act in his best interests

7 versus the best interests of the government?

8 A. Never.

9 Q. Did you do your best?

10 A. I did -- I tried to do my best.

11 Q. Did you try to deceive anyone?

12 A. I never did.

13 Q. Did you try to mislead anyone?

14 A. No.

15 Q. Have you ever now -- have you ever been in the position
16 to accept money or gifts from Mr. Wilson in exchange for taking
17 any action in his benefit?

18 A. No, I have not.

19 MR. AMOLSCH: Thank you, Your Honor, I have no further
20 questions.

21 THE COURT: Cross-examination.

22 MR. CARLBERG: Yes, Your Honor. I need just a moment to
23 organize.

24 THE COURT: Sure. Do you need a break? Okay. Hold on.

25 While you're doing that, we're going to take a short recess. Ten

1 minutes, is that -- will that do it. Stay down here versus going
2 outside. All right. All right. We'll take a ten minute recess.

3 (Jury out at 3:18 p.m.)

4 THE COURT: All right. We're in recess.

5 (Thereupon, a recess in the proceedings occurred from
6 3:18 p.m. until 3:34 p.m.)

7 THE COURT: All right. Anything before we bring the jury
8 back?

9 MR. AMOLSCH: No, sir.

10 MR. BURKE: No, Your Honor.

11 MR. AMOLSCH: Oh, Your Honor, I'm sorry. During the
12 course of my examination, I asked to admit in Exhibit 28. The
13 government had to objection to it. I don't believe I actually
14 went through the process of admitting it. The clerk -- court --
15 clerks tell me, so I'm now belatedly moving -- we talked about it
16 on display. I think I forgot to admit it, so I would like to
17 admit it now if that's all right.

18 THE COURT: Any objection?

19 MR. CARLBERG: No, sir.

20 THE COURT: All right. It's received.

21 MR. AMOLSCH: Thank you, Your Honor.

22 (Defendant's Exhibit 28 admitted into the record.)

23 (Jury in at 3:36 p.m.)

24 THE COURT: All right. Please, have a seat.
25

CROSS-EXAMINATION OF MATTHEW KEKOA LUMHO

BY MR. CARLBERG:

Q. Good afternoon, Mr. Lumho.

A. Good afternoon, Mr. Carlberg.

Q. Sir, a little bit before you wound up your testimony, you were talking about Fidel, so I want to ask you a few questions. When I was listening to your testimony about Fidel, you were talking about how he was proud and how he wanted a job. Do you remember that?

A. Yes.

Q. Okay. And do you remember, sir, that you said you had a conversation with Barry Atwood about Fidel getting a job, right?

A. Yes.

Q. And you knew Barry Atwood worked for MSO Tech, right?

A. I did, yes.

Q. And in fact, you'd been fishing with Barry Atwood, and Bill Wilson, and Tim Donelson back in 2011, right?

A. I had, yes.

Q. So you knew who all these people were?

A. Yes.

Q. Okay. And then you had this conversation with Barry Atwood and you -- I take pretty good notes sometimes and I think I have a direct quote from you on your testimony when you said, "I didn't think Fidel was getting a job with MSO." Do you remember telling Mr. Amolsch and this jury that a few minutes

1 ago?

2 A. Yes.

3 Q. Okay. And you said that you expressed to Barry Atwood a
4 concern about a conflict of interest.

5 Do you remember that?

6 A. Yes.

7 Q. And to -- to find him another job?

8 A. Yes.

9 Q. Okay. So I would like you to please turn to Government's
10 Exhibit 525, and it's going to be Page 100 in the bottom left
11 corner or 2314 up on the right-hand side.

12 A. I'm sorry. You said -- what was that number again?

13 Q. It's Page 100 in the bottom left in the small font, and
14 up in the top right-hand corner 2314. So when you're there, and
15 you have a chance to look at it, I'm going to ask you a question
16 or two, okay?

17 A. Sure. Yes, I see it.

18 Q. So Mr. Lumho you recognize that as prior testimony you've
19 given in another hearing.

20 Do you remember that?

21 A. Yes.

22 Q. And it was under oath, correct?

23 A. Yes.

24 Q. And it was in 2018, correct?

25 A. Um, yes.

1 Q. Okay. And do you remember you were being asked questions
2 by Mr. Amolsch, and he said, "Okay. Question: How did it come
3 to be if you know that he ended up with MSO." And your answer:
4 "So when this was going on with Fidel I had a conversation with
5 Barry Atwood. Barry Atwood and I were at lunch, and Barry was
6 upset about having to go run and pick up Bill from the airport.
7 His daughter, I think, Barry's daughter had a volleyball game
8 and he was upset that he had to go pick her up."

9 And then Mr. Amolsch says, "I ask you to slow down again
10 and lean forward." And you said, "Sure." "Barry was upset that
11 he was having to go pick up Bill at the airport." And you --
12 and that was your response. And Mr. Amolsch said, "Okay." And
13 then you said again, "And that he was having to constantly run
14 errands for Bill." And Mr. Amolsch said, "Okay." And then you
15 responded, "And through that conversation Barry expressed that
16 they needed somebody that can do those little types of things
17 for Bill to run around and do stuff." And he said, "Okay."
18 Do you remember --

19 A. I do remember that --

20 Q. -- that testimony?

21 A. Yes.

22 Q. So that testimony was about Fidel doing things for
23 Bill Wilson, wasn't it?

24 A. That was another conversation, yes.

25 Q. Okay.

1 A. But --

2 Q. That was my question.

3 A. Sorry.

4 Q. Let's talk a little bit more about Fidel and that -- that
5 job.

6 MR. CARLBERG: If we could go to Government's 938,
7 please.

8 BY MR. CARLBERG:

9 Q. I'm going to show you Government's 938.

10 Now, this is a payroll form with Fidel's information on
11 it, is it not?

12 A. I believe so, yes.

13 Q. And he can't fill that out himself, can he?

14 A. Can't -- that's -- no.

15 Q. So somebody provided this information to go to
16 Reva Sue Wilson, MSO's payroll person, correct?

17 A. I don't have any knowledge of this document, so --

18 Q. Well. Let's go to the second page. Do you see there
19 where it has Fidel's signature?

20 A. Yes, I do.

21 Q. And then it says, "Hourly pay, \$10 per hour biweekly."
22 Do you see that?

23 A. Yes.

24 Q. And do you see where it says, "Job description,
25 secretary/assistant"?

1 A. Yes, on the left.

2 Q. Mr. Ramos wasn't capable of being a secretary was he?
3 In terms of his education level?

4 A. I wouldn't think so, no.

5 Q. Now, sir, your father-in-law, Mr. Ramos has never met
6 Bill Wilson, has he?

7 MR. AMOLSCH: Objection, calls for speculation?

8 THE COURT: His knowledge.

9 BY MR. CARLBERG:

10 Q. To your knowledge has he ever met Bill Wilson?

11 A. Not that I'm aware of, no.

12 Q. At that time, 2011, 2012?

13 A. Not that I'm aware of, no.

14 MR. CARLBERG: Now, let's go to Government 644, please.

15 BY MR. CARLBERG:

16 Q. You testified on direct about checks coming from
17 FrankCrum.

18 Do you remember that?

19 A. Yes.

20 Q. And they came to your house, right?

21 A. They did, yes.

22 Q. And they were mailed there?

23 A. Correct.

24 Q. Basically, every -- every two weeks?

25 A. I don't recall the frequency but they came, yes.

1 Q. Well, if he was paid bi-weekly and we have a lot of
2 checks, probably every two weeks.
3 Would that be fair to say?

4 A. Yes.

5 Q. Okay. So your -- your testimony is that sometimes you
6 signed some of them and sometimes Fidel signed the backs of
7 others; is that fair to say?

8 A. Yes.

9 Q. Okay. So when you open the mail and you have the check
10 and you're looking at it --

11 MR. CARLBERG: Ms. Sandvig could you blow-up this portion
12 here, this upper left-hand portion. And can we highlight this
13 portion here.

14 BY MR. CARLBERG:

15 Q. Mr. Lumho, what does that say on the face of the payroll
16 check for your father-in-law?

17 A. That says, "411104MSO Tech, Inc."

18 Q. And those came to your house every couple weeks?

19 A. Yes.

20 Q. And you signed some of them?

21 A. I did, yes.

22 Q. And your testimony is you never had an idea that he was
23 working for MSO Tech?

24 A. Correct.

25 Q. And you never saw that MSO Tech for all of those months

1 that entire time?

2 A. I didn't pay -- I -- honestly, Mr. Sandberg, I didn't pay
3 attention to it.

4 Q. Carlberg. Sorry.

5 A. I'm sorry.

6 Q. It's okay.

7 A. Carlberg. I'm sorry.

8 Q. That's all right.

9 A. I apologize.

10 Q. It's okay. So you also testified you had access to
11 Mr. Ramos's bank account; is that correct?

12 A. I did. Yes.

13 Q. And you actually personally deposited a number of those
14 checks at the local branch; is that right?

15 A. Yes.

16 Q. I want to talk a little bit about the Government
17 Exhibit 174.

18 MR. CARLBERG: Could we please go to that.

19 BY MR. CARLBERG:

20 Q. We've seen this e-mail before.

21 A. Yes.

22 Q. So this is your e-mail to Timothy Donelson on May 23rd,
23 2012.

24 Do you see that?

25 A. Yes, I do.

1 Q. And you testified on direct that there was -- you were
2 pushing back on the cost that MSO Tech was -- or Level 3 was
3 charging for some contractors; is that right?

4 A. Yes.

5 Q. Okay. And then apropos this discussion, and, in fact,
6 attached to this e-mail right in the back, if we go to the last
7 page, was a service order with a bunch of positions that were
8 sent to you; is that correct?

9 A. Yes.

10 Q. Okay. So this discussion is in the context of an
11 official service order that Level 3 is asking you to sign,
12 right?

13 A. Um, yes. Yes.

14 Q. So in the context of your role and your official action
15 as a government official?

16 A. To sign --

17 Q. The service form.

18 A. Yes. They are sending it back for me to review and sign,
19 yes.

20 Q. Review and sign. Correct. So this e-mail conversation
21 is in the context of your reviewing and potentially signing this
22 service order, correct?

23 A. Yes.

24 Q. Okay. So in the middle of this discussion you volunteer,
25 correct, "Ron's whole seven day Disney cruise vacation with his

1 family including his extended family costs less than this"

2 Exclamation point.

3 Do you see that?

4 A. Yes, I do.

5 Q. And your testimony on direct was that Ron had described
6 this Disney cruise and had recommended that you take one, too,
7 right?

8 A. He had recommended that I go on a Disney cruise, yes.

9 Q. Paid for by a mutual friend, Bill Wilson?

10 A. No.

11 Q. He didn't mention that part?

12 A. No.

13 Q. Okay. So apropos of this official service order, you
14 volunteered, you know something about Ron's Disney cruise
15 vacation and its cost, correct?

16 A. Correct.

17 Q. To Timothy Donelson, correct?

18 A. Yes.

19 Q. And then you mentioned the next paragraph right down
20 below apropos of I don't know what, "I'm going Hawaii and
21 staying at the Hawaiian -- Hilton Hawaiian Village for two
22 weeks, staying in a two bedroom suite and the total cost with
23 airfare is 14K and that is for six adults" Exclamation point.
24 "Granted, food isn't in the cost but using Level 3 figures it
25 should cost 132K."

1 Do you see that?

2 A. Yes.

3 Q. So immediately after you reference Ron Capallia's
4 vacation that we know now was paid for by Bill Wilson, you
5 reference your own vacation plans, correct?

6 A. Yes.

7 Q. Okay. And then down be- -- next, you go on and
8 talk about -- in fact, you mentioned on direct how WITS was this
9 great vehicle for purchasing things and getting services
10 quickly, right?

11 A. Correct.

12 Q. Okay. Then you this mention, "I'm getting really beat up
13 bad lately due to hardware taking forever to get purchased.
14 When I say forever, I mean months. I can't even get a quote for
15 hardware within two weeks." Right. You wrote that to
16 Tim Donelson?

17 A. Yes.

18 Q. And then below that you stated, "My customers and
19 co-workers are quickly losing their confidence in my ability to
20 get what they need in a timely manner. What use to take a
21 matter of weeks is now taking months. Everyone is just about
22 done with me and WITS." You stated that, too, didn't you?

23 A. Yes, I did.

24 Q. And you had the power to sign or not sign that service
25 order that was sent to you, didn't you?

1 A. Yes.

2 Q. You were the DAR, right? The Designated Agency
3 Representative?

4 A. I was one of them. Yes.

5 Q. You were the DAR this e-mail was addressed to and this
6 service order was addressed to?

7 A. Yes.

8 Q. Okay. Now, let's see what happens next.

9 MR. CARLBERG: Can we go back out real quickly before we
10 lose this exhibit, Ms. Sandvig. Up above just highlight the top
11 part.

12 BY MR. CARLBERG:

13 Q. Tim Donelson at Level 3 then forwards this to
14 Bill Wilson, and he says, "We need to talk immediately."
15 Do you see that?

16 A. Yes.

17 Q. Okay.

18 MR. CARLBERG: Now, can we go to Government's 942.

19 BY MR. CARLBERG:

20 Q. So this is in evidence, and it's a payroll increase form
21 for your father-in-law, Fidel, correct?

22 A. It would appear so, yes.

23 Q. Yes. And the effective date that's stated down below is
24 June 15th, 2012, correct?

25 A. Yes.

1 Q. And it says, "This pay period," right?

2 A. Yes.

3 Q. Now, and it has above, "Fidel Ramos, Jr., Client name MSO
4 Tech, Inc."

5 You see that, right?

6 A. Yes.

7 Q. And then you see that the pay rate goes from \$10 to \$50
8 right after you sent that e-mail; isn't that right?

9 A. Was that from the pay- -- can we go back and look at the
10 dates. I wasn't following the dates. I was looking at the
11 other things.

12 MR. CARLBERG: Can we go back to the 174 real quick and
13 put them side-by-side? Thank you.

14 BY MR. CARLBERG:

15 Q. Your e-mailed to Tim Donelson, in which you mention
16 you're going to Hawaii and your knowledge of Ron Capallia's trip
17 was dated May 23rd, correct?

18 A. Correct.

19 Q. Okay. And then we go forward and a couple weeks later on
20 942, his payroll for a non-existent job because he never showed
21 up, right?

22 A. Not that --

23 Q. He never worked there?

24 A. -- I know of. Not that I'm aware of.

25 Q. Right. It goes from \$10 to \$50, right?

1 A. Yes. What was the date of the -- there's not a date on
2 that blown-up part.

3 Q. There's a fax date of June 15th across the top?

4 A. Okay. Correct.

5 Q. And there's an effective date here.

6 Do you see that?

7 A. So, yeah. May 23rd I send the e-mail and June 15th the
8 fax was sent with this change.

9 Q. Correct.

10 A. Correct.

11 Q. That's what it looks like to me, right?

12 A. Yes.

13 Q. Fair enough?

14 A. Yeah.

15 Q. Mr. Lumho, how many times have you had your pay
16 quintupled in one pay period?

17 A. I don't remember that ever happening.

18 Q. That would be pretty memorable, wouldn't it?

19 A. Quintupled, yes. That would be memorable.

20 Q. 500 percent?

21 A. Sure.

22 Q. Pretty memorable day. I would remember it, too. Now --
23 MR. SALVATO: Your Honor, I have to object to that last
24 statement, just ask to strike it.

25 THE COURT: Yeah. Just ask questions and no commenting.

1 MR. CARLBERG: I'm sorry.

2 THE COURT: Not to say that Mr. Amolsch hasn't been doing
3 the same thing for a while now. But let's try and keep it to a
4 minimum, please.

5 MR. CARLBERG: Certainly, absolutely.

6 BY MR. CARLBERG:

7 Q. Now, as far as you know, nothing about Fidel's lack of a
8 job changed in this time period, right? He was still at home?

9 A. I mean, I have no idea. I was not at home. I was
10 working.

11 Q. Okay. So let's see what happened with the money.

12 MR. CARLBERG: Could we go to Government 961, Page 39,
13 please.

14 BY MR. CARLBERG:

15 Q. This is a Navy Federal Credit Union statement for
16 Fidel Ramos.

17 MR. CARLBERG: Page 39, sorry.

18 BY MR. CARLBERG:

19 Q. So you see that check, don't you?

20 A. Yes.

21 Q. Lumho. And Mr. Lumho, that's deposited -- do you see the
22 date of the deposit?

23 A. 7-9. Yes.

24 Q. Okay. And what's the amount of the check?

25 A. 6,580 signed by Fidel.

1 Q. Right. And on the left-hand side it says again for MSO
2 Tech.

3 Do you see that?

4 A. Above -- or below the big FrankCrum, yes.

5 Q. Correct.

6 A. Yes.

7 Q. Okay. And then right after that --

8 MR. CARLBERG: We go to the next page, Ms. Sandvig.

9 BY MR. CARLBERG:

10 Q. There were a bunch of expenditures in Hawaii; is that
11 correct?

12 A. That is correct, yes. After reviewing this document,
13 yes.

14 MR. CARLBERG: If we could go Ms. Sandvig to page -- I'm
15 sorry, I said next page, 42.

16 BY MR. CARLBERG:

17 Q. Do you see ATM withdrawal beginning on the 16th of July
18 in Honolulu?

19 A. Yes.

20 Q. Okay. For \$202?

21 A. Yes.

22 Q. Yes. And then a debit charge at Pearl Harbor for \$217.
23 Do you see that?

24 A. Correct.

25 Q. If we go to the next page, you see here -- I won't go

1 through them all, but a bunch of charges at the Grand Waikiki
2 Honolulu in the amounts of 2 and \$300. Do you see that?

3 A. I do, yes.

4 Q. In July, throughout July really?

5 A. Yes.

6 Q. And Tesoro. That's a gas station, right? In Honolulu?

7 A. I believe so, yes.

8 Q. For \$56?

9 A. Oh, yes. On the bottom, yes.

10 Q. And then it looks like on -- do you see July 30th there's
11 a deposit of another \$6,580 there.

12 Do you see that?

13 A. On July 30th, yes.

14 Q. And that's a deposit in Fairfax Station. So that must
15 have been right after you got back from Hawaii; is that fair to
16 say?

17 A. Um, yes.

18 Q. Okay. So let's look at that check, how it comes in.

19 MR. CARLBERG: So could we blow up the -- I'm sorry,
20 that's Page 45, Ms. Sandvig. Can you blow up the --

21 BY MR. CARLBERG:

22 Q. So Mr. Lumho, the amount of this check is \$6,580.74; is
23 that correct?

24 A. Yes, it is.

25 Q. And again on the face below the big FrankCrum it says,

1 "For MSO Tech, Inc.," right?

2 A. I see that now, yes.

3 Q. And you actually signed this check.

4 Did you not?

5 A. That is my signature, yes.

6 Q. Yes. And you deposited that.

7 Did you not?

8 A. I -- I'm not sure if I deposited it myself or not, but it
9 was deposited.

10 Q. But you got the check. You had it in front of you?

11 A. I signed it, yes. That's my signature.

12 Q. You turned it over and signed it, right?

13 A. That's how you sign it, yes.

14 Q. Okay. And then it was deposited, correct?

15 A. It was deposited, yes.

16 MR. CARLBERG: Could we go to Government's Page 46,
17 please. 46.

18 BY MR. CARLBERG:

19 Q. Now, after that was deposited, do you see on August 2nd a
20 transaction there paid to Barclay card \$7,000.

21 Do you see that credit out?

22 A. I do, yes.

23 Q. Okay.

24 MR. CARLBERG: Now, let's go next to Government's Exhibit
25 910, please?

1 BY MR. CARLBERG:

2 Q. This, Mr. Lumho, is your statement for U.S. Airway miles
3 through Barclay's Bank; is that correct?

4 A. That is, yes.

5 MR. CARLBERG: And if we go to Page 4 of this exhibit,
6 and we highlight the middle portion that says, "Activity for
7 Matthew Lumho."

8 BY MR. CARLBERG:

9 Q. Mr. Lumho, do you see on August 1st top line --

10 MR. CARLBERG: Ms. Sandvig could you highlight the top,
11 the \$7,000, and then this line as well.

12 BY MR. CARLBERG:

13 Q. So Mr. Lumho, this is \$7,000 of money from that check,
14 that FrankCrum check for MSO Tech that went into the Fidel
15 account and then directly to your Barclay card; is that correct?

16 A. That is, yes.

17 Q. Okay. And then you paid off most of the balance there,
18 and you can see the activity below. Do you see that other
19 highlighted activity, July 24th, 25 posting date for \$2,114 for
20 Hertz rental car?

21 A. Yes.

22 Q. And that was for a rental car in -- it says Waikiki. So
23 that's Honolulu, right?

24 A. Yes.

25 Q. Yeah.

1 MR. CARLBERG: And just show 1101 real briefly.

2 BY MR. CARLBERG:

3 Q. Mr. Lumho, you're aware this was the Outlook file on your
4 computer that was recovered; is that correct?

5 A. Yes. That's from my Blackberry. Actually, yes.

6 Q. Right. And that has Mr. Ramos' bank account access
7 information for that Navy Federal Credit Union account?

8 A. His tax information, his -- yes. His Navy Federal, yes.

9 Q. So that's how you would remember to -- if you needed to
10 remember how to log in, you would look at this; is that right?

11 A. Correct, yes.

12 Q. Okay. I'm not going belabor the point by going through
13 all of these in great detail, but you'll remember that the --
14 the court record for Mr. Ramos's DUI, that listed MSO Tech as an
15 employer.

16 Do you remember that?

17 A. Yes. I -- yes.

18 Q. You said you weren't there, but you remember that that
19 wound up on the --

20 A. That was on there -- his, yes.

21 Q. Not FrankCrum, but MSO Tech?

22 A. Correct. Yes.

23 Q. And the same thing for the employment application for the
24 Catholic Arch Diocese in Arlington?

25 A. Yes. MSO Tech, correct.

1 Q. Thank you.

2 MR. CARLBERG: One moment please. Court's indulgence.

3 BY MR. CARLBERG:

4 Q. So Mr. Lumho, I want to talk a little bit about some of
5 the forms you signed when you were a government employee, some
6 of the ones we've seen here already, okay.

7 A. Sure.

8 MR. CARLBERG: I apologize. I'm going to get a sip of
9 water if I can.

10 Can we look at Government's 231, please, Ms. Sandvig.

11 BY MR. CARLBERG:

12 Q. So Mr. Lumho, this is the DAR appointment form appointing
13 you as a DAR for the WITS3 contract.
14 Do you see that?

15 A. Yes, I do.

16 Q. Okay. And you see your signature down there, right?

17 A. I do, yes.

18 Q. Okay. And you signed this, correct?

19 A. I did.

20 Q. Okay. Let's take a look at a few things it says.

21 MR. CARLBERG: Ms. Sandvig -- it might be a little hard
22 to highlight this, but can you blow up this second paragraph
23 here.

24 BY MR. CARLBERG:

25 Q. So do you see where it says, "As a DAR for your

1 organization, you are responsible to the agency you represent"?

2 A. Yes.

3 Q. And "In accordance with the WITS3 contract your agency
4 policies and procedures, the federal acquisition regulation, and
5 applicable anti-deficiency laws."

6 You see that, right?

7 A. I do, yes.

8 Q. And it says, "You can cannot delegate this responsibility
9 to others," correct?

10 A. Yes.

11 Q. And it says, "The appointment does not include the right
12 to modify the contract."

13 Do you see that?

14 A. Yes.

15 Q. "Or any of its terms or conditions as only the GSA
16 contracting officer may make contract modifications."

17 You see that, right?

18 A. Yes, sir.

19 Q. And do you see where it says, "If you have any questions
20 related to your roles and responsibilities as outlined in this
21 letter, please contact the DTS-W customer care service center at
22 703-697-2193."

23 You see that, right?

24 A. Yes, I do.

25 Q. So it does not say, "Contact Matthew Steiniger," right?

1 A. No, it does not.

2 Q. Okay. And it also says, "You may not delegate your
3 authorities to anybody else." Right?

4 A. Yes.

5 Q. Okay. And at this time Matthew Steiniger was not a DAR
6 was he?

7 A. I don't think -- No, he was not, at 2011.

8 Q. Now, he was not a DAR in 2011 or 2012, right?

9 A. Correct. Yes. He was not a DAR during this timeframe.

10 Q. Right. But you were?

11 A. I was starting in March of 2011.

12 Q. Okay. And further down below it says in the bullet
13 point --

14 MR. CARLBERG: Can we blow up the bullet point box there
15 and maybe the sentence that introduces it. Sorry, Ms. Sandvig.

16 BY MR. CARLBERG:

17 Q. It says, "Consider the following in carrying out your
18 responsibilities as a DAR:"

19 You see that, right?

20 A. Yeah. It says, "considering the following?"

21 Q. Right.

22 A. Yes.

23 Q. The first bullet is: "Be familiar with the terms and
24 conditions of the referenced contract." Right?

25 A. Yes.

1 Q. And if we go down to the third one it says: "Verify that
2 the service order requirements are consistent with the scope of
3 the fair opportunity decision number referenced in the service
4 order." Right?

5 A. Yes.

6 Q. Okay. And then the last bullet point: "Comply with all
7 appropriate agency standards of conduct."

8 A. Yes.

9 Q. You see that, right?

10 A. Yes, I do.

11 Q. Okay. And then it says, "Promptly notify" the same phone
12 number and service center, "should you no longer be able to
13 perform the functions." Right?

14 Do you see that?

15 A. Yes, I do.

16 Q. Okay. And then down below it says --

17 MR. CARLBERG: Yeah, that's good enough.

18 BY MR. CARLBERG:

19 Q. "Your signature below certifies that you accept and
20 understand the responsibilities and limitations contained
21 herein."

22 Do you see that?

23 A. Yes, I do.

24 Q. And you -- you -- you knowingly signed that, didn't you?

25 A. I did, yes.

1 Q. Um, I want to talk briefly about the ethics training you
2 received.

3 MR. CARLBERG: Could we go to Government's 232, first
4 slide.

5 BY MR. CARLBERG:

6 Q. Do you remember Keith Williams testifying about this --
7 this exhibit?

8 A. I do, yes.

9 Q. And you, as a -- as an Inspector General's employee
10 received this annual ethics training; is that correct?

11 A. Yes, I did.

12 Q. Okay. And so you received this 2011 annual ethics
13 training as well, correct?

14 A. I'm sure I did. Yes.

15 Q. Okay.

16 MR. CARLBERG: And if we could go, Ms. Sandvig, to
17 Page 27, please.

18 BY MR. CARLBERG:

19 Q. Do you see that, Mr. Lumho where it says, "Rule: You may
20 not solicit, accept, or coerce the offering, directly or
21 indirectly, a gift, either from any prohibited source or given
22 based on your official position."

23 Do you see that?

24 A. I do, yes.

25 Q. Okay. So you were informed of that, correct?

1 A. I was.

2 Q. And then below, the next slide 28, it says, "Gifts from
3 prohibited sources," and it says, "A prohibited source means any
4 person who or entity which seeks official action by the
5 Department of Defense." Basically, OSD, correct?

6 A. Yes.

7 Q. "Or does or seeks to do business with the office of the
8 Secretary of Defense." Correct?

9 A. Correct.

10 Q. And we can agree that Level 3 was doing business with the
11 Department of Defense, correct?

12 A. They were, yes.

13 Q. And they were subcontracting with MSO Tech, correct?

14 A. They were -- yes. They were subcontracting --

15 Q. -- So MSO Tech had people in --

16 THE COURT REPORTER: I'm sorry.

17 BY MR. CARLBERG:

18 Q. Go ahead. Sorry.

19 A. Yes. I answered yes.

20 Q. Okay. And you knew that MSO Tech had people inside the
21 Department of Defense, Office of Inspector General?

22 A. I did, yes.

23 Q. Okay. Then next page defines a gift, Page 29. And it
24 says here correct, "Anything of value?"

25 Do you see that?

1 **A.** Yes, I do.

2 **Q.** And that includes, "Cash, tangible items, services,
3 travel, so forth."

4 Do you see that?

5 **A.** I do.

6 **Q.** Okay. And Mr. Lumho, can we go to the last slide --

7 MR. CARLBERG: Page 30, please, Ms. Sandvig.

8 BY MR. CARLBERG:

9 **Q.** And it talks about, "Indirect gifts include items given
10 to a parent, spouse, sibling, child, dependent relative because
11 of that person's relationship with you." Correct?

12 **A.** Yes.

13 **Q.** "Or any other person including a charity, based on your
14 designation."

15 Do you see that?

16 **A.** Yes.

17 **Q.** Okay. And I want to go now to Government's 234. We'll
18 come back to this minute a little bit later, Mr. Lumho. But you
19 remember you talked about this technical evaluation, with AIS
20 right?

21 **A.** Yes.

22 **Q.** And you claimed at the time that you knew MSO Tech was
23 involved with AIS in this -- in this -- presenting this bid; is
24 that right?

25 **A.** Correct.

1 Q. And at that same time, your father, those checks from
2 FrankCrum for MSO were coming to your house; isn't that correct?

3 A. The ones from FrankCrum, yes.

4 Q. Yes. With -- with the notation, "For MSO Tech?"

5 A. Again, at that time I didn't know they were from MSO.

6 Q. But they're on the face of the check, right?

7 A. They are on the face of the check but again, I didn't --

8 Q. I understand.

9 A. Yeah.

10 Q. So in this letter, Mr. Lumho --

11 MR. CARLBERG: If we can do the second page,
12 Ms. Sandvig -- actually let's go to the third page. Sorry.

13 BY MR. CARLBERG:

14 Q. The two paragraphs above your signature, you
15 electronically signed this on June 26th, 2012; is that correct?

16 A. Yes, sir.

17 Q. Okay. And above your signature, it states first -- "To
18 the best of my knowledge, neither I nor any member of my family
19 has any direct financial or employment interest in any of the
20 firms submitting quotes for consideration and evaluation, which
21 conflicts substantially or appears to conflict substantially
22 with my duties as a member of the evaluation board."

23 Do you see that?

24 A. I do, yes.

25 Q. And it says, "In the event I later become aware of such

1 conflict of interest, I agree to disqualify myself and report
2 this fact to the contracting officer of the board and to abide
3 by any instructions which he/she may give me this matter."

4 Correct?

5 A. Yes.

6 Q. And you made no such notification to the board; is that
7 correct?

8 A. I'm going to answer what I answered before, which is, "I
9 didn't know that MSO was involved in this job."

10 Q. My -- my question was: You made no notification for
11 this?

12 A. I did not, no. No, I did not make any.

13 MR. CARLBERG: Court's indulgence for just one moment,
14 please.

15 THE COURT: Yes, sir.

16 BY MR. CARLBERG:

17 Q. Mr. Lumho, do you remember the prior testimony that we
18 went through at the top of this cross-examination?

19 A. Yes.

20 Q. And do you remember when I read you -- in the interest of
21 time I'm not going to pull it back up, but do you remember when
22 I read to you the conversation that you recounted with
23 Barry Atwood?

24 A. Yes. I -- Yes.

25 Q. And about driving Bill Wilson around. Fidel would be

1 driving Bill Wilson around, right?

2 A. Correct, yes.

3 Q. So Mr. Lumho, I want to talk a little bit about WITS.

4 MR. CARLBERG: If we go to Government's 157, please. And
5 could we go to the bottom of Page 1 here and highlight that?

6 Sorry.

7 BY MR. CARLBERG:

8 Q. This is a November 4th, 2011 e-mail from you to
9 Ron Capallia regarding OIG WITS3 project manager task order.

10 Do you see that?

11 A. Yes, I do.

12 Q. Okay. And do you see where you wrote to Mr. Capallia,
13 "Hey, can you remove Tommy's name and put mine on the orders and
14 all future orders."

15 Do you see that?

16 A. I do, yes.

17 Q. Okay. And then do you see up above at the top where
18 Ron Capallia responds, "Hey, Bill told me they found a person
19 for this. Are you ready to sign the order?"

20 Do you see that?

21 A. I do, yes.

22 Q. So Mr. Lumho, that's you telling Ron Capallia that you'll
23 handle future service orders for WITS?

24 A. I -- yeah. I had him change the name on the WITS order,
25 correct.

1 Q. To include your name, right?

2 A. To include my name, yes. Which he didn't do, by the way.

3 Q. But your name appears on a lot of them; is that fair to
4 say?

5 A. Not all of them. That's fair to say, too.

6 Q. Yes, but quite a few, right?

7 A. Fair to say.

8 Q. Okay.

9 A. Thank you.

10 Q. And most of the ones charging in the indictment probably,
11 right?

12 A. Yes, except for one.

13 Q. Okay. So let's go to 158. And here on November 7th, is
14 it's fair to say that you've -- this is the e-mail exchange
15 about the fishing trip.

16 Do you remember that?

17 A. Yes, I do.

18 Q. And it's you talking to Tim Donelson and Tim Donelson
19 saying at the top, "I haven't talked to Bill yet, but I'll call
20 him tomorrow. Do I need to bring a fishing pole, hooks, and
21 some worms, or does the guide service have that covered?"

22 Do you see that?

23 A. I do, yes.

24 Q. And then you did go on the fishing trip with, um --

25 MR. CARLBERG: If we can go to Government's 159, please,

1 Page 6.

2 BY MR. CARLBERG:

3 Q. You -- you did go on the fishing trip, correct? With
4 Barry Atwood, Bill Wilson, and Tim Donelson around November 10th
5 of 2011; is that right?

6 A. Um, I believe it was that timeframe, yes.

7 Q. Yeah --

8 A. Based on that last e-mail, yes.

9 Q. Correct. And the receipt for the Chesapeake Beach,
10 Maryland, Traders Seafood.
11 Do you see that?

12 A. Yes, I do.

13 Q. And that November -- you recall eating there?

14 A. I recall eating there and everybody paying for their own
15 food, yes.

16 Q. Sure. But you were there with Barry Atwood, correct?

17 A. Barry was there, yes.

18 Q. And Bill Wilson, correct?

19 A. And Tim Donelson and Bill Wilson.

20 Q. And Tim Donelson, right?

21 A. Correct.

22 Q. Okay. And then, with the assistance of the courtroom
23 security officer, I'm going to hand you up a new --

24 MR. CARLBERG: I need an exhibit tag for this,
25 Ms. Sandvig. I don't think I have one.

1 (Discussion held off the record between Counsel.)

2 MR. CARLBERG: One up to the Court, too. Sorry.

3 I'll mark this as 1564. We'll mark it as 1564.

4 (Government's Exhibit 1564 marked.)

5 BY MR. CARLBERG:

6 Q. Mr. Lumho, do you recognize that as an e-mail you sent to
7 Mauricio Covarrubias and others at the DoD IG at the end of
8 October of 2011?

9 A. I do, yes.

10 Q. Okay. Is it true and accurate?

11 A. It is.

12 Q. Okay.

13 MR. CARLBERG: And if we can go ahead and move to admit
14 1564, please.

15 THE COURT: Any objection?

16 MR. AMOLSCH: No objection.

17 THE COURT: Received.

18 (Government's Exhibit 1564 admitted into the record.)

19 BY MR. CARLBERG:

20 Q. Now, this is -- Mr. Lumho, this is before Fidel went on
21 the payroll of MSO Tech, right? This is end of October, 2011,
22 right?

23 A. Correct.

24 Q. Okay. And the first -- let me go over here, Government's
25 1564.

1 And in this e-mail to your colleagues the DoD IG, you
2 write, "Attached is the equipment and cost. WITS, Washington
3 Interagency Telecommunications Services, primary use is for
4 ordering telecommunication services, which is my job. Period."
5 Did you write that?

6 A. I did, yes.

7 Q. As it says in the title, "Period." Correct?

8 A. Correct.

9 Q. "Thanks. How is the protest going?"

10 A. Correct.

11 Q. And then you attached a service order that you signed.
12 Do you see that?

13 A. Um. I don't --

14 Q. -- actually, it's not a service order, my apologies.
15 What is -- it's Summary of Materials; is that right?

16 A. Yes. I don't recall this. But, yes. Yes.

17 Q. Okay. So letting people know that you are -- you
18 understood WITS was for telecommunication services and ordering
19 was your job?

20 A. Yes. That was a snarky e-mail to Willie and I -- we were
21 bantering back and forth, yeah.

22 Q. I understand.

23 MR. CARLBERG: Court's indulgence, please.

24 BY MR. CARLBERG:

25 Q. Could we -- I want to talk a little bit about the BRAC

1 move and some events after that. Okay. And I'll try to move
2 somewhat expeditiously through this.

3 A. Sure.

4 MR. CARLBERG: So could we pull up Government's 161,
5 please?

6 BY MR. CARLBERG:

7 Q. So 161 appears to be an e-mail, right, from Ron Capallia
8 to you where he says, "Attached is the task order and Statement
9 of Work for 400 Army Navy Drive clean-out."

10 Do you see that?

11 A. Yes, I do.

12 Q. It's not addressed to Matt Steiniger, is it?

13 A. No, it's not.

14 Q. And it's not addressed to Tommy Carlyle, correct?

15 A. No, it is not.

16 Q. And the Statement of Work --

17 MR. CARLBERG: If we can go to Page 2, please.

18 BY MR. CARLBERG:

19 Q. The Statement of Work is a couple pages, but effectively
20 it talks about -- do you see the second bullet point under
21 responsibilities of the OIG?

22 A. Yes.

23 Q. "OIG shall provide escort services into the facilities
24 for movers."

25 Do you see that?

1 A. Yes.

2 Q. And below that two bullets down, "OIG shall provide
3 specific locations of the storage sites, which each unit is to
4 be shipped prior to unstacking."

5 Do you see that?

6 A. Yes.

7 Q. Okay. So Mr. Lumho, you -- you -- you were the point of
8 contact for Ron Capallia on the restack on this particular
9 e-mail, correct?

10 A. Yes, I was.

11 Q. And he provided you with a Statement of Work to review?

12 A. Yes.

13 MR. CARLBERG: And then can we go to, Ms. Sandvig --
14 I'm sorry I misspoke and said restack. Thank you Mr.
15 Amolsch. The BRAC move.

16 THE WITNESS: Yes. I understood what you meant though.
17 I'm sorry, for the record.

18 MR. CARLBERG: Yes. Thank you. Thank you for that.

19 BY MR. CARLBERG:

20 Q. So that's the BRAC move, correct?

21 A. Yes, sir.

22 Q. Okay. And then attached to this last page, that's a
23 service order that Ron Capallia sent to you; is that right?

24 A. Yes, it is.

25 Q. And it states, "Cable installer." Correct?

1 A. Yes.

2 Q. Outside normal business day?

3 A. Yes.

4 Q. And then it says, "4,171 hours." Correct?

5 A. Correct.

6 Q. At a cost per unit of \$106, correct?

7 A. Yes.

8 Q. For a total of \$442,501.39, correct?

9 A. Yes.

10 Q. And, sir, that description of work does not match the
11 Statement of Work, does it?

12 A. No. I would say it's inconsistent with what the
13 Statement of Work is.

14 MR. CARLBERG: Okay. You can take it down now.

15 BY MR. CARLBERG:

16 Q. And 162, Mr. Lumho. I know your counsel showed this to
17 you on direct, and, uh, this is the one where you comment in the
18 top --

19 MR. CARLBERG: We can go to the top portion first,
20 Ms. Sandvig.

21 BY MR. CARLBERG:

22 Q. This is the one where you commented you were, "TDY in
23 Korea this week and next. What is going on?"
24 And you said, "This is much higher than I originally had
25 thought, significantly higher." Correct?

1 **A.** Yes.

2 **Q.** Okay.

3 MR. CARLBERG: And then if we can go down below to the --
4 I'm sorry. I misspoke, Ms. Sandvig. Saying down below, I mean
5 the bottom of the page. I'm misleading you, so to the bottom of
6 that first page, please. Yeah. Sorry.

7 BY MR. CARLBERG:

8 **Q.** And you tell Tommy Carlyle, "Please sign and send to me,
9 please." Because you were in Korea, right?

10 **A.** Correct, yes.

11 **Q.** And Mr. Lumho you forwarded the signed service order,
12 signed by your subordinate, Tommy Carlyle, as part of this
13 chain.

14 Did you not?

15 **A.** Yes.

16 **Q.** Okay.

17 MR. CARLBERG: So if we could go to the last page and
18 display that.

19 BY MR. CARLBERG:

20 **Q.** And this is a -- in the middle it lists you as contact
21 number one, Kekoa Lumho, correct?

22 **A.** Yes.

23 **Q.** And contact number two, Tommy Carlyle. And it's the
24 same, Cable installer 4,171 hours for \$442,000. And Tommy
25 Carlyle was your subordinate, right?

1 A. He was, yes.

2 Q. And he signed it after you sent him that e-mail?

3 A. Yes.

4 Q. And he -- you forwarded this to Level 3, correct?

5 A. Yes.

6 Q. Then -- and you knew Mr. -- so when you forwarded that
7 signed document, you knew that it was pretty high priced, didn't
8 you?

9 A. I knew that it was a price that Matthew approved us to
10 use, yes.

11 Q. Well, my question was you said it was "significantly
12 higher," correct?

13 A. Correct, yes.

14 Q. And so you knew it was high, right, high priced?

15 A. I knew it was significantly higher than what we had
16 discussed before for the clean-out.

17 Q. So you knew -- you had read the service order, correct?

18 A. Yes.

19 Q. And you knew what the price was, correct?

20 A. Yes.

21 Q. And you knew it was not for one -- four hundred -- 4,171
22 hours of cable installer work, right?

23 A. I knew it was for the Statement of Work that was attached
24 to the service order request, yes.

25 Q. Which did not match the service order, correct?

1 A. Right. It was incorrect, inconsistent. Yes.

2 Q. And this was the BRAC clean-out project that Donny Ravas
3 worked on, right?

4 A. Yes. And I know that now. At the time I didn't know who
5 did the clean-out. I just knew that it was done.

6 Q. You know -- you were friends with Barry Atwood and
7 Donny Ravas.
8 Were you not?

9 A. I was friends with Barry from work, yes.

10 Q. And you came to know Donny Ravas, correct?

11 A. I came to know Donny through Barry, yes.

12 Q. In 2011, 2012.

13 A. It was in two thousand --

14 Q. Let me ask a better question. I'm sorry, I'll be more
15 precise. At least by 2012 you knew Donny Ravas, correct?

16 A. It's hard to say when I met Donny. I don't -- I don't
17 remember the timeframe. I know I did meet Donny I'm just not --
18 I don't want to say it was 2011 or 2012. It had to be 2012, but
19 I don't know if it was 2011 as well.

20 Q. We'll get to him in a little bit.

21 A. Okay.

22 Q. Maybe it will get clearer?

23 A. Okay. Thank you.

24 Q. And just in terms of time right after you sent this
25 e-mail to Ron Capallia with that service order that was signed

1 by your subordinate, that's right around the same time Fidel
2 started receiving checks at your house; isn't that right?

3 A. Um, I don't know when Fidel -- if you could refresh my
4 memory of when Fidel started getting the checks. I haven't tied
5 the two together, but if that's when the checks were then that's
6 when the checks started arriving.

7 Q. Okay.

8 MR. CARLBERG: If we could go to 164, please.

9 BY MR. CARLBERG:

10 Q. Now, Mr. Lumho, I think your counsel showed you this one
11 on direct as well.

12 Do you see down below on the first page where you are
13 sent NIKSUN quotes?

14 Do you see that?

15 A. I do, yes.

16 Q. Okay. And if we go back to Page 3, that's a quote from
17 another company, right? OSI Federal Technologies?

18 A. Yes.

19 Q. And if we go to the very first page at the top, you
20 forwarded that internal quote information to Ron Capallia at
21 Level 3, correct?

22 A. I did, yes.

23 Q. And you copied Bill Wilson, correct?

24 A. Yes, I did.

25 Q. And that's in February of 2012, right?

1 A. February 29th, yes.

2 Q. So you knew this work was going to Level 3 and then down
3 to Bill Wilson's MSO Tech, right?

4 A. I assumed that Ron was going to give it to MSO, yes.

5 Q. Okay. So as early as February 29th you knew Ron was
6 taking stuff to MSO Tech?

7 A. I believe I knew before February 29th.

8 Q. Okay.

9 A. I believe I knew that during the -- I'm sorry. There
10 wasn't a question asked.

11 MR. CARLBERG: Court's indulgence.

12 MR. CARLBERG: If we go to 167, please.

13 BY MR. CARLBERG:

14 Q. So Mr. Lumho, this is an e-mail from Ron Capallia to you
15 saying, "See attached scope of work," right.

16 Do you see that on March 26th, 2012?

17 A. Yes.

18 Q. And that was the last part of the clean-out portion of
19 the BRAC; is that right?

20 A. I believe that was the last part of the clean-out. The
21 400 Army Navy Drive with Donny Ravas was part of the satellite
22 build- -- satellite offices of the three.

23 Q. And then Page 2 of this exhibit, once again, "The scope
24 of work is attached for your review"; isn't that right?

25 A. Yes.

1 Q. And it talks about scope of work for additional IT
2 equipment relocation and disposing of equipment; is that fair to
3 say?

4 A. Yes.

5 Q. Okay. And then page -- the next Page 3, I believe, is a
6 draft service order form for cable installer.

7 Do you see that?

8 A. Yes, I do.

9 Q. And for \$80,097.95, right?

10 A. Correct.

11 Q. And that does not match the Statement of Work that you
12 reviewed, correct?

13 A. Correct.

14 Q. And on this e-mail --

15 MR. CARLBERG: If you go back up to the top please of the
16 first page.

17 BY MR. CARLBERG:

18 Q. There's no Matthew Steiniger on this e-mail, right?

19 A. Not on the e-mail, no.

20 Q. No.

21 MR. CARLBERG: Ms. Sandvig, if you can go to 168, please.
22 Ms. Sandvig, thank you.

23 BY MR. CARLBERG:

24 Q. Mr. Lumho, you see this as the next e-mail in the series
25 March 28th, 2012. It's you sending that signed service order

1 form back to Ron Capallia, right?

2 A. Correct.

3 Q. Okay. And we can go to Page 2, please. That's your
4 signature on March 28th, 2012 for, cable installer, 755 hours
5 for over \$80,000, correct?

6 A. Yes.

7 Q. And that work description that you signed does not match
8 the Statement of Work you reviewed in the previous e-mail, does
9 it?

10 A. That's correct, right.

11 Q. Okay.

12 MR. CARLBERG: Back to the first page, Ms. Sandvig.

13 BY MR. CARLBERG:

14 Q. There's no Matthew Steiniger on this e-mail, is there?

15 A. No, there is not.

16 Q. And you were the DAR at this point in time, right?

17 A. Yes, I was.

18 MR. CARLBERG: Can we go to -- one moment. Can we go to
19 172, please.

20 BY MR. CARLBERG:

21 Q. I want to talk a little bit about the fair opportunity
22 letter. You talked about that on direct, right?

23 A. I did, yes.

24 Q. Okay. You admitted on direct that you back-dated that
25 letter, right?

1 A. I did, yes.

2 Q. And you signed it?

3 A. I did.

4 Q. And your testimony was that you did it to help
5 Ron Capallia, right?

6 A. Correct.

7 Q. And you didn't do it for any other purpose, just to help
8 Ron out, right?

9 A. Correct, at that time. That's correct.

10 Q. And Mr. Lumho, I want to -- do you recall previously
11 testifying that it was a mistake that you regretted doing that?

12 A. I do, yes.

13 Q. That you wished you had not sent it?

14 A. Absolutely.

15 Q. And that you went ahead and did it anyway, right?

16 A. I did.

17 Q. So I want to break this down a little bit and talk about
18 what a mistake is versus what intentional conduct is, okay.

19 So Ron called you and told you he had a fair opportunity
20 letter; is that right?

21 A. I don't believe he called it a "fair opportunity letter."
22 I believe it was a, "Hey, I'm -- I'm -- I'm in trouble. Tim's
23 on me, I need to get this thing signed that we didn't get signed
24 before." I don't recall if he -- he -- he might have said it
25 was a fair opportunity letter. I don't recall if he specified

1 what it was.

2 Q. And so he called you first, right?

3 A. He did, yes.

4 Q. And then, did he -- he must have e-mailed you the letter?

5 A. He must have, yes, because I didn't provide it.

6 Q. And so you must have been waiting for that e-mail after
7 he called you?

8 A. I mean, I wasn't waiting for an e-mail from him to --

9 Q. Okay. Well, at some point you got the e-mail with the
10 letter attached, right?

11 A. I did, yes. Yeah.

12 Q. Okay. So you opened it, and you had to print the letter
13 out, right?

14 A. Yes.

15 Q. Okay. So let's look at this page. Let's look at this
16 letter, Page 3.

17 So Mr. Lumho, at the top of the letter it's official
18 Department of Defense letterhead, right?

19 A. Yeah. I didn't look at the letter when I signed it, but
20 go ahead.

21 Q. You didn't look at the letter?

22 A. I did not.

23 Q. So let me get this straight. It comes in an e-mail and
24 it must have an icon, an attachment, right?

25 A. I'm not following you. It showed it as an attachment

1 correct, yes.

2 Q. And you would have to open that attachment to print it,
3 right?

4 A. Yes.

5 Q. So your testimony is that you opened it up on your
6 computer screen but didn't look at it on the computer screen?

7 A. This was not something that was -- that I thought over --

8 Q. But you said on direct that you walked it down to
9 Mr. Steiniger's office, and he said, "Who are these guys,"
10 right?

11 A. Right.

12 Q. Do you remember telling Mr. Amolsch that?

13 A. That's correct, yes.

14 Q. So you must have looked at it and shown it to
15 Mr. Steiniger by your previous testimony, right?

16 A. I did.

17 Q. Okay. So you looked at it, right?

18 A. Matthew Steiniger looked -- I mean, I didn't look at
19 it --

20 Q. You didn't look at it but Matthew Steiniger --

21 A. Mr. Carlberg, I'm -- I'm -- I'm telling you I didn't read
22 the -- the letter. I signed it. I talked to Matthew, and
23 Matthew said, "sign it." I signed it.

24 Q. So uh --

25 A. I didn't lose too much sleep over it when I signed it. I

1 lost sleep over it when I was indicted.

2 Q. Mr. -- Mr. Lumho --

3 A. Yes --

4 Q. Let's look at the letter?

5 A. Okay.

6 Q. It says, "Dear Ms. Bentley. As the designated agency
7 representative for the Regional Contracting Office, National
8 Capital Region, RCONCR, I would like to take this opportunity to
9 advise you of our selection of Level 3 Communications, LLC under
10 WITS3 contract" -- I'll skip reading the number -- "as our
11 preferred provider for the following WITS3 services:
12 Professional services and customer premises equipment."

13 Do you see that?

14 A. I do, yes.

15 Q. There's no such thing as the regional capital -- Regional
16 Contracting Office National Capital Region, that you're a part
17 of, is there?

18 A. So I can answer what I know now, or I can answer what I
19 knew then.

20 Q. My question is: Were you part of a Regional Contracting
21 Office National Capital Region?

22 A. I answered -- I -- I can answer what I know now, or I can
23 answer what you knew then.

24 Q. I'm asking you what you knew then, when you reviewed
25 this?

1 **A.** I had no idea.

2 **Q.** Okay. So then, it says below, "Pursuant to this fair
3 opportunity notification letter, I hereby certify that funding
4 for orders associated with this notification will be obligated,
5 prior to order issuance, in accordance with federal government
6 and RCONCR procurement laws, policies, and regulations."

7 Do you see that?

8 **A.** I do see that, yes.

9 **Q.** Do you know what RCONCR procurement laws, policies, and
10 regulations are?

11 **A.** No, I don't.

12 **Q.** And Mr. Lumho, then you signed it. Right?

13 **A.** I did.

14 **Q.** So where were you when you signed it?

15 Do you remember?

16 **A.** I was probably at my desk at that point.

17 **Q.** So you took a pen out like this one and signed it?

18 **A.** I'm not sure how else I would have signed it if I
19 didn't --

20 **Q.** You used a pen, right?

21 **A.** Yeah.

22 **Q.** Okay. Then you must have scanned it, right, back into
23 something to send it back to Ron Capallia?

24 **A.** That's correct.

25 **Q.** Okay. So you had at least several minutes in this whole

1 process to stop and think about it, right?

2 A. Okay. Yes. Yeah.

3 Q. But your testimony is you never really looked at it,
4 right?

5 A. I'm just telling the truth. You can paint a picture of
6 how you want, but I'm just telling you what the truth is.

7 Q. All right. When you sent it back to Ron Capallia, you
8 did not copy Matt Steiniger, did you?

9 A. No, I didn't.

10 Q. It's just you and Ron Capallia, right?

11 A. That's correct.

12 MR. CARLBERG: If we can go to 173, please.

13 BY MR. CARLBERG:

14 Q. I want to talk briefly about Lenovos.

15 MR. CARLBERG: We can go to Page 3 -- Oh, yeah, Your
16 Honor. Yeah.

17 So Ms. Sandvig, we need to go back to the previous one
18 real quickly.

19 BY MR. CARLBERG:

20 Q. I forgot to ask you something Mr. Lumho.

21 MR. CARLBERG: 172 again.

22 BY MR. CARLBERG:

23 Q. The e-mail, Page 2, top, is you to Ron Capallia, right?

24 A. Yes.

25 Q. And you typed this e-mail, right?

1 A. I did, yes.

2 Q. And it says, "Ron, attached is the fair opportunity
3 letter I thought I had sent last year" period. You said that,
4 right?

5 A. I did, yes.

6 Q. And that wasn't true, was it?

7 A. No, that's not true.

8 Q. Okay. So when you wrote that sentence on official
9 government e-mail attaching that back-dated letter, you knew
10 that wasn't true?

11 A. Correct.

12 Q. Okay. But you wrote it anyway?

13 Is that a "yes"?

14 A. Yes, it was sent. Yes.

15 Q. And then you wrote, "I looked through my e-mail and, in
16 fact, I did not send it." That wasn't true either, was it?

17 A. No. That's not true.

18 Q. And you wrote, "My bad," exclamation point?

19 A. My bad, yes.

20 Q. And once again, just you and Ron on that exchange, right?

21 A. Yes, sir.

22 Q. So you went to the extra step of adding those untruths to
23 the e-mail, correct?

24 A. Yes.

25 MR. CARLBERG: Can we go to Page 3 of Government's

1 Exhibit 173, please.

2 BY MR. CARLBERG:

3 Q. We've seen this before. I just want to ask you a quick
4 question about it. May 14th, 2012. Matthew Steiniger to you.
5 And he's writing to you, the DAR, "Kekoa, where did we leave off
6 on the concept of acquiring laptops via the WITS vehicle? You
7 need specs," question mark?

8 Do you see that?

9 A. I do, yes.

10 Q. And that's him asking you about WITS, right?

11 A. He's asking where do we leave off on the concept of
12 acquiring laptops via WITS, yes.

13 Q. And he was not the DAR at that time, was he?

14 A. Not at that time, no.

15 Q. But you were?

16 A. Yes.

17 Q. And then Mr. Lumho, you got the specs for that, right,
18 which is Page 4 of this e-mail?

19 A. Yes, I believe Ricardo Farrerah sent them to me.

20 Q. Right.

21 MR. CARLBERG: And then if we go to Page 2, Ms. Sandvig,
22 top.

23 BY MR. CARLBERG:

24 Q. Ricardo Farrerah who you just mentioned says, "Attached
25 are the specs for the Lenovo T420s." And he said, "The

1 estimated cost is \$360,000."

2 Do you see that?

3 A. I do.

4 Q. Okay. And then Mr. Lumho, you go to the first page, in
5 the middle you forwarded that to Ron Capallia, correct?

6 A. Yes.

7 Q. "Ron, see below"?

8 A. Yes.

9 Q. And then in turn up at the top, Ron Capallia forwards
10 that to Bill Wilson and says, "We need to quote this ASAP,"
11 right?

12 A. That's what Ron did, yes.

13 Q. Yes. And that was government bid information and price
14 information that you shared with Ron Capallia, correct?

15 A. Um, yes. From the quote, yes.

16 Q. Right. You didn't keep it close to the vest, right?

17 A. No.

18 Q. No. So you told Ron exactly what the price was or how
19 high the government would be willing to go, right?

20 A. I told him what the price was that the quote was, yes.
21 The price was on the quote, yes.

22 Q. And he could match that or beat it or go higher?

23 A. It was -- I guess his discretion.

24 Q. You didn't forward that to anybody at Verizon, did you?

25 A. No.

1 Q. And you didn't get a quote from Verizon on this, did you?

2 A. Not that I recall, no.

3 Q. In fact, for these service orders, you didn't send any of
4 them to Verizon, did you?

5 A. No. None that are in the indictment, no.

6 Q. None in the time period whether Fidel was on the payroll,
7 right?

8 A. I don't recall.

9 Q. February 2012 through --

10 A. October.

11 Q. October 2012?

12 A. I believe I did get one from Verizon for some Cisco
13 equipment.

14 Q. So you knew Verizon was out there and was another vendor
15 you could use, right?

16 A. They're on the WITS contract, yes.

17 Q. Yeah. They're on the WITS contract, right?

18 A. Correct.

19 Q. And you knew that at the time, right?

20 A. I knew it was Level 3 and Verizon, yes.

21 Q. Right. And yet everything that we've seen in this trial
22 is you and Level 3 and Bill Wilson, right?

23 A. As far as WITS goes -- it was -- yeah.

24 Q. Yeah.

25 MR. CARLBERG: And then can we go to 112B, please.

1 BY MR. CARLBERG:

2 Q. Mr. Lumho, this is the service order that you've been
3 shown before, it's \$438,000, 496- -- I'm sorry. I misspoke.
4 \$438,496.74 for a total -- that's a total cost.

5 Do you see that?

6 A. Yes, I do.

7 Q. And you signed this, right?

8 A. I did, yes.

9 Q. As agency DAR --

10 A. Correct --

11 Q. -- on or about June 21st, 2012?

12 A. Correct, yes.

13 Q. Okay. And the description of work is not correct, is it?

14 A. It is inconsistent, correct.

15 Q. Senior telecommunications specialist, that's a person,
16 right?

17 A. That is a person, yes.

18 Q. And that's for 2,237 hours of that person's work,
19 correct?

20 A. Correct.

21 Q. And that's at a price of \$196 per hour of that person's
22 work?

23 A. Correct.

24 Q. Right. And in fact, that was for the Lenovo laptops,
25 right?

1 A. Yes.

2 Q. That Ricardo Farrerah originally said 360 thousand on in
3 the e-mail?

4 A. Was that -- yes.

5 Q. Okay. And then above, in the remarks, it says, "Senior
6 telecom specialist for Lenovo installation."

7 Does it not?

8 A. Yes, it does.

9 Q. And there's no senior telecom specialist installing
10 Lenovos on this service order, is there?

11 A. No, there is not.

12 Q. Okay. Now, I want to put this up side by side with
13 Government's 803, which we've seen before as well.

14 Now, Mr. Lumho, on the left is the service order we just
15 talked about, and what is the date on that service order, the
16 date of your signature?

17 A. 6-21.

18 Q. Of 2012?

19 A. Ah, yes.

20 Q. And what's the printed date on the upper left-hand
21 corner?

22 A. 6-20.

23 Q. Okay. And then on the right-hand side is the e-mail,
24 Government's 803 that you've seen before and you remember this
25 one, right?

1 A. I do, yes.

2 Q. Okay. And so this is from your Gmail account to
3 Barry Atwood at MSO Tech, Inc., right?

4 A. Yes.

5 Q. Okay. And what's the date of this e-mail that's the
6 subject "additional lens"?

7 A. 6-20.

8 Q. That's the same date as the date on the service order
9 request form, the printed date?

10 A. Yes, it is.

11 Q. And it's sent one day before the date of your signature;
12 is that right?

13 A. Yes.

14 Q. Okay. And in this e-mail, you're listing a Canon zoom
15 lens for \$1,799, right?

16 A. Yes.

17 Q. And a -- two black and white clear UV haze
18 multi-resistant coating for \$60.39 each, right?

19 A. Correct.

20 Q. And the Canon Speedlight flash for 699, right?

21 A. Yes.

22 Q. And Mr. Lumho this was also after your e-mail to
23 Tim Donelson about Ron Capallia's Disney cruise.
24 Was it not?

25 A. What's the date of that e-mail?

1 MR. CARLBERG: Let's pull up 174. Government's 174,
2 please.

3 THE WITNESS: That was after this, correct. This was
4 5-23 and the other one was 6-20.

5 BY MR. CARLBERG:

6 Q. So you had already referenced Ron Capallia's Disney
7 cruise in the e-mail, correct?

8 A. I had already got the price cut down from \$130,000,
9 correct.

10 Q. My question was: You, in that e-mail, you had referenced
11 Ron Capallia's cruise to Disney, correct?

12 A. I had, yes.

13 Q. And you had referenced your Hawaiian vacation, correct?

14 A. Yes.

15 Q. In the context of that service order that was attached to
16 that e-mail, right?

17 A. The one attached to the --

18 Q. 7-4?

19 A. Yes, correct.

20 Q. Okay. Now, what I'm asking you is --

21 MR. CARLBERG: We can take 174 down.

22 BY MR. CARLBERG:

23 Q. So I'm just trying to establish a timeline here. The
24 checks from FrankCrum MSO Tech have been coming in now for a
25 couple of months, fair enough? To the house?

1 **A.** Correct.

2 **Q.** Okay. And we have the e-mail about the Hawaiian vacation
3 at the end of May, correct?

4 **A.** Correct.

5 MR. CARLBERG: And then, if we can go back to these two
6 side-by-side, 803 and 112B.

7 BY MR. CARLBERG:

8 **Q.** We have your e-mail from your private e-mail sent to
9 Barry Atwood listing camera equipment, correct?

10 **A.** Correct.

11 **Q.** On the same day that you're signing \$438,000 WITS3
12 service order that has incorrect information in the description,
13 correct?

14 **A.** Yes.

15 **Q.** Okay.

16 MR. CARLBERG: Now, can we go to 238, please.

17 BY MR. CARLBERG:

18 **Q.** We get to the bottom portion, Willie Spivey to
19 Kekoa Lumho, July 31st, 2012.

20 **A.** I see that.

21 **Q.** Yes. And in this e-mail, Mr. Spivey writes to you and
22 this is about the laptops, he said, "Kekoa, per our discussions
23 yesterday, please provide a status of the pending order for the
24 200 laptops requested through the WITS contract ordering
25 process," right.

1 Do you see that?

2 A. Yes.

3 Q. Okay. And then he adds, "Additionally, provide the
4 order/requisition number used in the process, as well as the
5 delivery information," correct?

6 A. Yes.

7 Q. And the next paragraph he writes, "The time-sensitive
8 nature of this laptop order was predicated on the agency's
9 request to procure the items in support of a critical short fall
10 of the items. Given the laptops have not been either ordered
11 shipped/delivered in a timely manner and with the award of the
12 original contract for laptops to the contracting center, it's
13 imperative we know the status of this order immediately," right?
14 Do you see where he wrote that?

15 A. Yes, I do.

16 Q. And above you didn't send him the service order or any of
17 the things he requested in this e-mail, did you?

18 A. No. Because I told him as we already discussed I've
19 cancelled it. So why would I send him the orders --

20 Q. Well, he asked for -- "Please provide the order
21 requisition number used in the process," correct?

22 A. Right. But I cancelled the order.

23 Q. Okay. Well, some of that order had already gone through
24 hadn't it?

25 A. I had cancelled it. As far as I knew, the order was

1 cancelled. Ron Capallia didn't cancel the order, but I had
2 cancelled the order.

3 Q. Well, Mr. Lumho, you -- let's -- let's talk a little bit
4 about, you were testifying a little bit ago about how WITS was
5 so fast and efficient for the Inspector General?

6 A. Correct.

7 Q. But these laptops -- Mr. Spivey here is saying these
8 laptops hadn't shown up, correct?

9 A. Right, because we couldn't get the model that we needed.

10 Q. Well, was that all that was wrong with MSO Tech's
11 performance?

12 A. I'm sorry.

13 Q. Was that all that was wrong with Level 3 and MSO Tech's
14 performance under WITS?

15 A. I'm not sure your question.

16 Q. Just the -- my question was: Were there other things
17 that you were not happy about with Level 3 and WITS?

18 A. There were things -- yeah. Their -- their response time
19 had drastically changed, yes.

20 Q. Okay.

21 MR. CARLBERG: Well, I would like to hand up Government's
22 Exhibit 1550, please.

23 THE WITNESS: Thank you.

24 BY MR. CARLBERG:

25 Q. Do you recognize this Mr. Lumho as an e-mail you sent to

1 Ron Capallia?

2 A. Yes. I do remember this.

3 MR. CARLBERG: I'd like to admit 1550, please.

4 MR. AMOLSCH: No objection, Your Honor.

5 THE COURT: Received.

6 (Government's Exhibit 1550 admitted into the record.)

7 MR. CARLBERG: We can display it and blow up the relevant
8 portion, please.

9 BY MR. CARLBERG:

10 Q. So Mr. Lumho, do you see here where you wrote, "I need to
11 know the status of the following, please. Cisco maintenance. I
12 haven't received a quote for this. We need it badly."

13 Do you see that?

14 A. I'm sorry, where are you?

15 Q. The first sentence.

16 A. Yes.

17 Q. I mean, after the introductory part. And then you said,
18 "Backup tapes" -- on the third line, "I need an answer of this
19 as well. Signed the order three weeks ago and have nothing on
20 this."

21 A. Correct.

22 Q. "We are dead in the water right now. We have not had a
23 backup of our data in two weeks."

24 Do you see that?

25 A. Sounds pretty bad, yes.

1 Q. Yeah. So was everybody happy with WITS?

2 A. No.

3 Q. Okay. "Cisco cables and hardware, this was another high
4 priority order that I signed three weeks ago that I have heard
5 nothing on."

6 A. Correct. Yeah.

7 Q. Correct?

8 A. Mm-hmm.

9 Q. "And then Polycom order signed months ago. Where is it?
10 When will it be here," correct?
11 You wrote that?

12 A. Yes.

13 Q. And then, "Status of 200 Cisco phones nine months ago.
14 We are down to 8 in stock, and we are completely out of
15 inventory."

16 Do you see that?

17 A. I do, yes.

18 Q. And then the next line you wrote, "My patience is wearing
19 thin. I'm about two seconds from having to cancel these orders
20 per Spivey," correct?

21 A. Correct.

22 Q. So you wrote that like they would know who Spivey is,
23 right?

24 A. They knew who Spivey was, yes.

25 Q. Okay. And up above you sent this to Ron Capallia and

1 Bill Wilson directly, correct?

2 A. Directly.

3 Q. And Barry Atwood?

4 A. Yes.

5 Q. All three of them?

6 A. Yes.

7 Q. And then down below the last line -- well, no let me go
8 back here. You said, "Can we please add some items to the WITS
9 contract," and you list: Mac Pro, Mac Server, Mac Thunderbolt
10 Displays." And you said, "Pretty much anything Mac that is top
11 end starting with the new Mac Pro," and then you added, "We will
12 more than likely purchase 100K to 150K worth of these shortly,"
13 right?

14 A. Correct. Yes --

15 Q. You were informing them there could be additional orders
16 through Level 3 and MSO Tech, correct?

17 A. I was informing them that we were -- we had a request to
18 purchase more servers, yes.

19 Q. So Mr. Spivey and you were not too happy with the
20 performance of MSO Tech and Level 3 on WITS at this point in
21 time, right?

22 A. I'm not sure if Mr. Spivey necessarily had a distaste for
23 it, but I -- I certainly did. I was the one handling it.

24 Q. Well, they're certainly not fast and efficient, right?

25 A. Not at this point, no. You're right.

1 MR. CARLBERG: Could we put up government's 810, please?

2 BY MR. CARLBERG:

3 Q. This is the exterior of MSO Tech.

4 Do you recognize that?

5 A. Do I recognize it?

6 Q. Yeah, from this trial?

7 A. Yes, from the trial. Yes, I do.

8 Q. Now, Mr. Lumho, does that look like the right place to go
9 to buy MacBook Pro's and Mac Servers and Thunderbolt Displays?

10 A. Is that really a question --

11 Q. Yeah.

12 A. -- for me?

13 Q. Does it look like a Best Buy?

14 A. We don't buy from Best Buy necessarily. I -- I -- I have
15 no idea. I can't answer that question.

16 Q. Isn't the truth that these orders were being done by
17 Bill Wilson's company down in Lake Butler, Florida? A company
18 that dug fiber optic cables?

19 A. Yes.

20 Q. Now, Mr. Lumho, you testified on direct -- one second --
21 that you never altered anything. Never sent anything that was
22 altered or falsified to the Comptroller's Office.

23 Do you remember that?

24 A. Correct.

25 Q. And do you remember -- one moment --

1 MR. CARLBERG: Defense Exhibit 39? Do we have that
2 handy?

3 MR. CARLBERG: We don't have to show it.

4 BY MR. CARLBERG:

5 Q. But do you -- do you remember that -- that, where you
6 sent an e-mail to Jennifer Paper and that e-mail did not have
7 the attachment?

8 Do you remember that?

9 A. The e-mail -- right. The one where it was forwarded and
10 the attachment wasn't on there, correct.

11 Q. Well, I want to hand 1551 and 1552 up. Here's one set
12 and here's the other set.

13 A. Thank you, sir.

14 Q. Mr. Lumho, do you recognize --

15 A. Yes, I recognize --

16 Q. -- 1551. I'm sorry. 1551 is an e-mail from Ron Capallia
17 to you with line items for equipment?

18 A. Correct, yes.

19 Q. Okay.

20 MR. CARLBERG: And I move Government's 1551 in, please?

21 THE COURT: Any objection.

22 MR. AMOLSCH: No objection, Your Honor.

23 THE COURT: Received.

24 (Government's Exhibit 1551 admitted into the record.)

25 BY MR. CARLBERG:

1 Q. And Mr. Lumho, that's how the e-mail came in to you from
2 Ron Capallia with the equipment, right?

3 A. Correct.

4 Q. Okay. Now, I'd like to ask you to look at 1552 that's in
5 your hand.

6 A. Yes.

7 Q. Do you see that? It has the DoD OIG Bates number on the
8 bottom right hand corner?

9 A. Yes.

10 Q. And this is your forwarding information to Jennifer Paper
11 in the Comptroller's Office?
12 Do you see that?

13 A. Yes. This is from my Gmail account, correct. From -- to
14 my work account and then me forwarding what I sent to my work
15 account, yes.

16 Q. Right.

17 MR. CARLBERG: Move 1552 in, please.

18 MR. AMOLSCH: No objection.

19 THE COURT: It's received.

20 (Government's Exhibit 1552 admitted into the record.)

21 MR. CARLBERG: If we can display them side-by-side.

22 BY MR. CARLBERG:

23 Q. So Mr. Lumho, on the left, do you see the e-mail coming
24 in from Ron Capallia with certain invoice numbers, labor costs,
25 equipment costs, numbers?

1 **A.** Yes.

2 **Q.** And do you see that that has an actual item description
3 that is really just equipment, right? Microphones?

4 **A.** Yes, I see it.

5 **Q.** Cisco cables, NIKSUN 1, NIKSUN 2. Do you see all that
6 equipment that's listed there?

7 **A.** Yes.

8 **Q.** Okay. So -- and then down below do you see that when you
9 were home from your Gmail, that all of that equipment
10 description is taken out of that table?

11 **A.** Correct.

12 **Q.** Right? And then you forwarded that to your work account,
13 correct?

14 **A.** Yes.

15 **Q.** And then from your work account you forwarded that to
16 Jennifer paper in the Comptroller's office, right?

17 **A.** Yes.

18 **Q.** And so you took out the equipment description, correct?

19 **A.** Um, yes. It isn't there, correct.

20 **Q.** So Mr. Lumho, Ms. Paper was denied that information when
21 you forwarded it to her because of an action you took, correct?

22 **A.** Ms. Paper was denied that information. I guess you could
23 put it that way, yes.

24 **Q.** I want to switch gears now and talk a little bit about
25 the camera, okay.

1 A. Yes, sir.

2 MR. CARLBERG: Could we go back to 803, please.

3 BY MR. CARLBERG:

4 Q. That's your -- again, your e-mail from your Gmail account
5 to Barry Atwood, correct?

6 A. Yes, it is.

7 Q. It's not from your work account?

8 A. No. Just like the other e-mail was from my Gmail.

9 Q. And it lists several items to be ordered, correct?

10 A. Correct.

11 Q. And you -- you --- you mentioned I think on direct you
12 have a camera yourself, right?

13 A. I do, yes.

14 Q. Yeah.

15 MR. CARLBERG: Could we go to 902, please, Ms. Sandvig.

16 Go ahead and blow up that -- you can't make it any
17 bigger, right?

18 THE WITNESS: Same size.

19 BY MR. CARLBERG:

20 Q. So Mr. Lumho, you see here in Government's 902, the
21 records from Amazon, right?

22 A. Yes.

23 Q. And do you see that you purchased 77 millimeter, 4-piece
24 camera accessories or -- or lens cover filter of some kind?

25 A. It was a lens filter, correct.

1 Q. A lens filter, right.

2 A. Mm-hmm.

3 Q. And that's the same size as the black and white 77
4 millimeter lens filter that Barry Atwood purchased; is that
5 correct?

6 A. It's the standard size Canon filter, yes.

7 Q. Right. So they're consistent, right? They fit the same
8 camera?

9 A. They will fit any Canon camera, yes.

10 Q. Any Canon camera?

11 A. Any -- any lens that's of that millimeter size, yes.

12 Q. Right. So any DSLR, right, that has interchangeable lens
13 it fits, right?

14 A. Yes.

15 Q. Okay. And down below it look like Barry Atwood was also
16 purchasing that EF24-70 millimeter zoom lens that we saw in the
17 previous exhibit as well, right? Right around the same time?

18 A. I believe that Tyler Dalton was. Barry Atwood was, I
19 think, the shipping name, yes.

20 Q. Okay. If we go to Page 2 of this. So around the same
21 time you're having the lens filters that you bought with your
22 card shipped to your house on Rondelay Lane; is that right?

23 A. Correct.

24 Q. And the other items that you had put in the e-mail to
25 Barry Atwood are being shipped to Barry Atwood's residence in

1 Ashburn, Virginia, right?

2 A. I didn't dictate where they were shipped. But yes, there
3 is a purchase by Tyler Dalton of the lenses that I -- I -- that
4 I requested being shipped to Barry Atwood's, yes. And AD,
5 yes -- Section AD. I'm sorry.

6 Q. And Mr. Lumho, then around the same time, same month, you
7 received a service order from --

8 MR. CARLBERG: If we go to Government's 177 next, please.

9 BY MR. CARLBERG:

10 Q. You received a service order from Ron Capallia.
11 Do you remember this?

12 A. I remember the e-mail, yes. I remember --

13 Q. Service order.

14 A. Yes, sir.

15 Q. Okay. Cable installer underscore Apple installation in
16 the attachment?

17 A. Yes.

18 Q. Okay. And if we go to the service order request --

19 A. Oh, yeah.

20 Q. -- it has remarks, "Technical support, Apple cable
21 installation."

22 Do you see that?

23 A. Yes.

24 Q. Okay. And it lists a number of items, including a Canon
25 EOS 60D digital camera, right?

1 **A.** Correct.

2 **Q.** And you directed Mr. Capallia to remove that detail from
3 the service order request form, didn't you?

4 **A.** Yes, after I spoke with Matthew.

5 MR. CARLBERG: Ms. Sandvig, could we play Government's
6 Exhibit 179?

7 (Audiotape played.)

8 BY MR. CARLBERG:

9 **Q.** And Mr. Lumho, nowhere in that voicemail did you say
10 Matthew Steiniger told me to do that, right?

11 **A.** I did not say that, no.

12 **Q.** And that was your voice on that recording, correct?

13 **A.** That was my voice.

14 **Q.** And then Ron Capallia did as instructed, correct?

15 **A.** Yes.

16 **Q.** And he sent it back to you in altered form, right?

17 **A.** In the -- yes. In the form that I asked him to send it,
18 yes.

19 MR. CARLBERG: If we can go to 180, please, Ms. Sandvig.

20 BY MR. CARLBERG:

21 **Q.** And at the bottom of the first page, it says, "June 11th,
22 2012, Kekoa new task order attached. Thank you, sir." And
23 that's the previous one, and then above after your voicemail he
24 says, "Kekoa, I have corrected the attached task order. Thank
25 you, sir."

1 And if we go to Page 3 -- Page 4, sorry, no that's Page
2 3 -- I'm sorry, my apologies. Page 3, the detail is removed; is
3 that correct?

4 **A.** That's correct.

5 **Q.** In remarks. And it just says, "Apple cable
6 installation," right?

7 **A.** Correct.

8 **Q.** And for those kind of products like a -- like a Canon EOS
9 camera or the other Apple like the I Fi card --

10 **A.** Mm-hmm.

11 **Q.** -- you don't need -- you don't need anybody to install
12 that, do you?

13 **A.** No, you do not.

14 **Q.** Right. So the cable installer description is incorrect,
15 right?

16 **A.** Incorrect.

17 **Q.** Right. And it's 768 hours of a person's services being
18 billed, right?

19 **A.** Correct.

20 **Q.** For \$54,320?

21 **A.** Correct.

22 MR. CARLBERG: If we can go to 108B, please.

23 BY MR. CARLBERG:

24 **Q.** And Mr. Lumho, you signed that altered WITS3 service
25 order request form, did you not?

1 A. I did, yes.

2 Q. And you were the DAR, correct?

3 A. Yes.

4 Q. And once again, \$54,320.64; isn't that right?

5 A. Yes.

6 Q. And you remember your testimony and evidence from the
7 forensic accountant that the real cost of that was about
8 \$11,000.

9 Do you remember that?

10 A. I -- I don't recall the -- the dollar amount.

11 Q. I would like to go on now to -- I would like to ask the
12 assistance of the courtroom security officer to hand you the
13 physical items?

14 A. Sure.

15 Q. If he can pull them out.

16 MR. CARLBERG: Yes, could we do 1104, please. And can
17 you pull up 177, one more time.

18 BY MR. CARLBERG:

19 Q. Mr. Lumho, if you could just be kind enough take out a
20 bag for us. Thank you, sir.

21 Does that match the description of the Canon EOS 60D digital
22 SLR?

23 A. Yes, it does.

24 Q. Okay. You can go ahead and set it down on there. Thank
25 you. Could you now take a look at 1105, please.

1 MR. CARLBERG: You can take this one down. Thank you.

2 THE WITNESS: Do you want me to open it?

3 BY MR. CARLBERG:

4 Q. Yeah, yeah. Please do. Thank you, sir.

5 A. Sure.

6 Q. Could you just hold it up a little bit where I could see.

7 It has a tripod mount, right?

8 A. Yes.

9 Q. That's a pretty high-end lens, isn't it?

10 A. Subjective to say that. But it -- it's not your average
11 lens, correct.

12 Q. Right. So it's a -- what's the focal length on that?

13 A. 70 20 200 millimeter.

14 Q. And do you see the F stop?

15 A. Um, I -- I don't see it.

16 Q. Maybe if you pop the lens cap off.

17 MR. CARLBERG: Ms. Sandvig, can you put up 917 while he's
18 doing that.

19 BY MR. CARLBERG:

20 Q. So Mr. Lumho, if you look at 9 -- Government's 917?

21 A. Yes.

22 Q. This is an order summary from Tyler Dalton at MSO Tech.

23 A. Yes.

24 Q. Do you see the two product items listed there?

25 A. I do, yes.

1 Q. And do you see EF 70-200 millimeter F/2.8?

2 A. Yes.

3 Q. Okay. Is that the same lens that you're holding?

4 A. It is. Yes, it is.

5 Q. And that's for about \$2300 after discount?

6 A. Yes.

7 Q. Okay. And if we go to Page 2, that is once again shipped
8 to that same Arapaho Terrace address in Ashburn, Virginia,
9 right?

10 A. Correct.

11 Q. Mr. Lumho, the last thing with that. I appreciate you
12 putting it back, but can you take it out one more time real
13 quickly. I won't ask you to mount it on the camera because we
14 might damage it, but that is not used for Outlook photos, right?

15 A. No. This was not for an Outlook photo, no.

16 Q. It would be good for outdoor photography, wouldn't it?

17 A. Or inside of an auditorium.

18 Q. Or for outdoor photography and all kinds of other things,
19 right?

20 A. Yes.

21 Q. Okay. Mr. Lumho, there was some questions on direct
22 about what that -- what the camera was used for.
23 Do you remember that?

24 A. I do, yes.

25 Q. And there was discussion about you wanted to use it for

1 Outlook photos and then maybe it would be used in the later
2 phase of the Outlook photos, right.

3 Do you remember that?

4 A. In the later phase in the Outlook photos?

5 Q. The Outlook photos, right, that were organized in May?

6 A. Yes. For the professional photographer that took the
7 photos, yes.

8 Q. And that professional photographer was not using any of
9 this equipment, correct?

10 A. No. Not this equipment, no.

11 Q. Because that equipment was purchased later, right?

12 A. Yes.

13 Q. And, sir, do you recall previously testifying that that
14 equipment was used at Gordon Heddell's retirement?

15 A. It couldn't have been used -- this equipment here?

16 Q. Yeah?

17 A. No.

18 Q. That camera?

19 A. No. If -- that would have been impossible to be used at
20 Gordon Heddell's.

21 Q. But I want to ask you if you remember testifying
22 before --

23 MR. CARLBERG: Ms. Sandvig, if you go to 525, and 2377,
24 and I believe it's Page 163 and 164 of your book of Government's
25 525. Sorry. That's of the previous transcript.

1 THE WITNESS: What was the page number again? I'm sorry.

2 MR. CARLBERG: The little page number will be 163 or --

3 THE WITNESS: Which tab is it?

4 MR. CARLBERG: Sorry. It's 525, in Government's 525.

5 THE WITNESS: Okay.

6 MR. CARLBERG: Page 163, I believe is where it will
7 start.

8 THE WITNESS: Okay.

9 BY MR. CARLBERG:

10 Q. And this was previous testimony of yours under oath,
11 correct?

12 A. Correct.

13 Q. And that was about -- that was in 2018, right?

14 A. Yes.

15 Q. And Mr. Amolsch was asking you questions about this
16 camera equipment.

17 Do you remember that?

18 A. I don't exactly remember. But if I could read it real
19 quick. Yes.

20 Q. And those questions were about that camera equipment,
21 right?

22 A. No. I don't think it was.

23 Q. Well, the previous questions were, Mr. Lumho --

24 A. Which line, please?

25 Q. One second.

1 **A.** Sure.

2 **Q.** Were there other -- Question: Line 17.

3 **A.** Mm-hmm.

4 **Q.** "Were there other reasons why that camera was put to use
5 other than the photo ID's for the ID badges." Question.
6 Do you see that?

7 **A.** Yes.

8 **Q.** Your answer: "Yes. So the IG had state of agencies and
9 during his -- during the previous IG, Gordon Heddell, shortly
10 after we moved into Mark Center, excuse me, Mr. Heddell retired.
11 This was in December 2011 right after we moved into the Mark
12 Center. He retired and our photographer was not available."
13 Do you see that?

14 **A.** Yes, I do.

15 **Q.** And then you continued: "And Mr. Wilson our SES told us
16 to find a photographer. So we reached out to the Pentagon AV
17 group that tried to get their photographer. The Army didn't
18 have a photographer so they could use at that time. And so we
19 reached out to -- they said reach out to WHS. We reached out to
20 WHS and they finally were able to get a photographer to come and
21 take photos of that retirement. But on the day of the
22 retirement WHS bailed, so the Army in turn sending up one of
23 their photographers which was my original request. So we ended
24 having a photographer there to take these photos."

25 So the question was: What that camera was used for? And

1 you said, "The retirement of Gordon Heddell" is the first thing
2 you said?

3 **A.** Okay. That's -- that's not what I meant. But I'm -- I
4 don't read it that way either. But so what I was explaining was
5 during the IG's retirement ceremony, there was a whole ordeal
6 trying to get a photographer to photograph the event. And at
7 the last minute WHS sent me an e-mail that morning and said they
8 couldn't make it. So the Army ended up sending a photographer
9 of their own with their own camera to take the photo.

10 So I didn't intend to say that that camera -- that the
11 Army sent a photographer without a camera and used the camera
12 that we had in 2011 that we didn't have.

13 **Q.** Okay. But let me -- we'll move on in just a second.

14 But Mr. Lumho, the immediate question that Mr. Amolsch
15 asked you then was, "Were there other reasons why that camera
16 was put to use other than for photo ID's and badges?" And you
17 immediately answered, "With the Gordon Heddell retirement,"
18 correct?

19 **A.** Sorry. Again, that -- that's not what I intended for it
20 mean. If that's the way it came off then that was incorrect.
21 The camera was not even purchased. And that's part of the
22 reason why we bought the camera is because of the fiasco we had
23 at Heddell's retirement.

24 **Q.** And Gordon Heddell retired in December of 2011, correct?

25 **A.** He did and I got an award for scrambling to get a

1 photographer for that event.

2 MR. CARLBERG: One moment, please.

3 MR. SALVATO: Your Honor, could we approach real quickly
4 on just the scheduling issue?

5 THE COURT: Yes, sir.

6 (Following sidebar discussion had on the record at 5:14
7 p.m.:)

8 MR. SALVATO: My apologies, Your Honor. It looks like the
9 government is moving on to the next topic, so I hope I picked an
10 appropriate time. We do have our two character witnesses that
11 have been patiently waiting for a couple of days. I know one of
12 them does have a doctor's appointment that he needs to go to at
13 5:45, so I was just asking how long do you think you will have
14 left, and then with Mr. Amolsch's redirect perhaps I could excuse
15 him to come back first thing in the morning, but I'm -- I'm
16 conscious of the difficult task to cross-examine someone over a
17 period of time with a lot of information, so.....

18 MR. CARLBERG: Thank you, Mr. Salvato. I have, I believe,
19 two more lines of cross that I do not anticipate taking more than
20 20 minutes.

21 THE COURT: It's 5:15 right now. That gives you 5:35.
22 And how much redirect do you have?

23 MR. AMOLSCH: A fair amount. He's covered a fair amount
24 of ground, so I will not be able to finish it -- probably an
25 hour. I don't know. I don't want to mislead the Court.

1 THE COURT: We're not going to repeat everything he did on
2 direct.

3 MR. AMOLSCH: Actually, no, I'm only going to go over the
4 exhibits the government asked him about.

5 THE COURT: Well, that's all your direct testimony, too,
6 so we're not going to go -- I mean, you can ask pointed questions
7 about stuff.

8 MR. AMOLSCH: Yes, sir, but I just wanted to -- they've
9 gone over a fair number of exhibits. There are some I've never
10 seen before, which is fine, but it's going to take me a little
11 while.

12 THE COURT: We're not going to get to your witnesses.

13 MR. SALVATO: I have two five-minute witnesses, so I can
14 tell them to be back right at quarter to 9 and just jam it out.

15 THE COURT: Okay. That's fine.

16 MR. SALVATO: But I don't want to hold somebody up from
17 having a doctor's appointment.

18 THE COURT: I agree. Okay. Thank you.

19 MR. SALVATO: Can I step out for two seconds?

20 THE COURT: Sure.

21 (Sidebar discussion concluded.)

22 THE COURT: We're probably going to go until 6:00. Do you
23 all need a quick comfort break, or are you okay? Okay.
24 All right.

25 MR. CARLBERG: Court's indulgence. I'm going to cut it

1 down to one last line, so if I can have 30 seconds I'll be ready
2 to do that. One moment, please.

3 BY MR. CARLBERG:

4 Q. Mr. Lumho, do you recall on direct testimony with
5 Mr. Amolsch a few moments ago, well it's been more than a few
6 moments now, but do you remember that?

7 A. Yes, I do.

8 Q. And do you remember when you were discussing how you met
9 with certain agents at the Department of Defense to go over some
10 of the service orders?

11 A. Yes, I do.

12 Q. And you -- you testified that it -- you wrote the service
13 order portal numbers on those service orders, right?

14 A. Correct.

15 Q. And that by doing that you saved the agents a lot of
16 time, right?

17 A. That was an assumption, yes.

18 Q. Okay. And that -- I think you said, if I have this
19 right, you were, "Not trying to deceive -- I was trying to help
20 them." Is that right?

21 A. Yes.

22 Q. Okay. Well, Mr. Lumho, do you remember a time when that
23 investigation sought your bank records?

24 A. Yes.

25 Q. And do you remember receiving a "Notice to Consumer"

1 about the Inspector General wanting to go look into your Navy
2 Federal Credit Union account?

3 A. I do, yes.

4 Q. Do you remember hiring a lawyer to try to fight that?

5 A. Of course, yes.

6 MR. CARLBERG: I'm going to hand up what's been marked as
7 Government's 1553.

8 THE WITNESS: Yes.

9 BY MR. CARLBERG:

10 Q. Is that the Motion to Quash subpoena that your attorney
11 filed in the Eastern District of Virginia on December 9th, 2014?

12 A. Yes. This is a motion that my attorney recommended I do,
13 yes.

14 Q. And you -- if you turn to -- before we admit it and
15 publish it, if you turn to -- it looks like Page 8, it has a
16 subpoena. Do you see that? To you, or a subpoena to your bank?

17 A. Yeah. I don't -- I don't know which one Page 8 is, but I
18 do know there was a subpoena to the bank, yes.

19 Q. Let's go to the last page?

20 A. Okay.

21 Q. Do you see that? Is that your sworn statement that you
22 attached to that -- to that complaint or to that --

23 A. Yes.

24 Q. Okay. And that's your signature?

25 A. Yes.

1 MR. CARLBERG: I'd like to move to admit and request
2 permission to publish 1553, Your Honor?

3 MR. AMOLSCH: No objection.

4 THE COURT: It's received.

5 (Government's Exhibit 1553 admitted into the record.)

6 BY MR. CARLBERG:

7 Q. So Mr. Lumho this is your Motion to Quash the Inspector
8 General's subpoena for your bank records, right?

9 A. Yes. This is what my attorney had -- had submitted, yes.

10 Q. Okay. And if we go to -- because it's an Inspector
11 General subpoena --

12 MR. CARLBERG: Ms. Sandvig, if we go to page one, two,
13 three, four -- Page 6.

14 BY MR. CARLBERG:

15 Q. Because it was an Inspector General subpoena, they were
16 required to provide you notice of this, right?

17 A. Um, sure. Yes.

18 MR. CARLBERG: Okay. And if we go to three more pages,
19 Ms. Sandvig, to the --

20 BY MR. CARLBERG:

21 Q. That's a copy of the subpoena, right? Where they were
22 seeking your bank records, right?

23 A. Yes. Yes.

24 Q. All right.

25 MR. CARLBERG: And then one more page, Ms. Sandvig.

1 BY MR. CARLBERG:

2 Q. Some of the documents they were seeking were monthly
3 statements, deposits, transfer records.

4 Do you see that?

5 A. Yes.

6 Q. Okay.

7 MR. CARLBERG: And if we can go to the last page,
8 Ms. Sandvig.

9 BY MR. CARLBERG:

10 Q. And this was your sworn statement, right, Mr. Lumho?

11 A. Yes.

12 Q. And you stated down below in this --

13 MR. CARLBERG: You can enlarge the last bottom half.

14 BY MR. CARLBERG:

15 Q. You stated that, "These records are not relevant to a
16 legitimate law enforcement inquiry, as they are outside of the
17 scope of the Department of Defense's purview, and the Department
18 of Defense lacks a factual basis to support the subpoena."

19 Do you see that?

20 A. That's what my attorney wrote, yes.

21 Q. But, well, you signed it, right?

22 A. I did sign it. Yes.

23 Q. And you signed it under penalty of perjury, right?

24 A. Correct.

25 Q. That you believed it to be true and correct?

1 A. At the time, yes.

2 Q. And you lost that motion, right?

3 A. I did. Yeah.

4 MR. CARLBERG: Okay. So can we go to Government's 962
5 now.

6 BY MR. CARLBERG:

7 Q. And Mr. Lumho, this is your bank account, right?

8 A. It is.

9 Q. This is what you did not want the Inspector General to
10 see, right? It's what you were trying to prevent them from
11 getting access to?

12 A. Okay. Sure. Yes. Sure.

13 Q. Okay. And right here on the first page of this --

14 MR. CARLBERG: Can we blow up the detail here.

15 BY MR. CARLBERG:

16 Q. Do you see where it says, "Transfer from checking
17 Fidel O. Ramos Junior, \$1,800"?

18 Do you see that?

19 A. Yes, I do.

20 Q. Well, Mr. Lumho if the Inspector General saw that, they'd
21 be able to trace back who Fidel Ramos was, wouldn't they?

22 A. What year was that subpoena?

23 Q. You filed your -- your motion in 2014.

24 A. Right.

25 Q. Yes. It would cover bank records going back in time,

1 wouldn't it?

2 A. Sure, yeah.

3 Q. Yeah. And so they would get these bank records, right?

4 A. Mm-hmm.

5 Q. And then they would see that money coming in from
6 Fidel Ramos, right?

7 A. Yeah. There was -- yeah.

8 Q. And then that would lead them back to Fidel Ramos as MSO
9 Tech, wouldn't it?

10 A. Yes. Yeah.

11 Q. So it might have been helpful to them to have that
12 information for their investigation, wouldn't it?

13 A. Um, I -- yeah.

14 Q. And you fought that?

15 A. Based on my attorney's advice, yes.

16 Q. But you fought it, you hired the attorney, you filed the
17 motion, right?

18 A. I hired the attorney and my attorney did the rest of the
19 work. I just signed the document, yes. But based on what my
20 attorney told me that --

21 Q. Just like Ron Capallia did all the work on all those
22 order you signed?

23 A. Are you con- --

24 Q. I'm just asking. You said you just signed it. Did you
25 review --

1 A. My attorney wrote the document.

2 Q. -- your sworn statement?

3 A. I - I reviewed it, yes.

4 Q. And you said they had no factual basis, right?

5 A. Yes.

6 Q. Okay. And then the bank records show that Fidel Ramos
7 money, right?

8 A. Yes.

9 Q. Thank you.

10 A. You're welcome.

11 MR. CARLBERG: No further questions.

12 THE COURT: Redirect.

13 MR. AMOLSCH: Thank you, Your Honor. May it please the
14 Court.

15 REDIRECT EXAMINATION OF MATTHEW KEKOA LUMHO

16 BY MR. AMOLSCH:

17 Q. Good afternoon again, Mr. Lumho.

18 Could we bring up Government's Exhibit 158 and 159.

19 Do you remember Mr. Carlberg asking you questions about
20 this, these exhibits?

21 A. Yes.

22 Q. Okay. So this is a -- tell the ladies and gentlemen of
23 the jury what -- what is -- what's the date on this e-mail from
24 Tim Donelson to you?

25 A. 11-7.

1 Q. What year?

2 A. 2011.

3 Q. Okay. And what is -- what are you all discussing here?

4 A. Um, I had a friend who called me and said, "Hey, I've got
5 a charter boat. All my buddies bailed. Do you want to go
6 fishing next or this coming Thursday" -- or whatever day it was.

7 Q. What's your buddy's name?

8 A. Dairush Maitari (Phonetic.)

9 THE COURT: I'm Sorry?

10 THE WITNESS: Dairush Maitari.

11 MY MR. AMOLSCH:

12 Q. All right. So Dairush has a charter, all right. Go
13 ahead.

14 A. And so he called me and said, "Hey, I already got it. Do
15 you want to come fishing?" And I said, "Sure." And he said,
16 "Do you have any buddies? I think there's four spots to fill."

17 Q. All right. And --

18 A. So I reached out to -- I was actually at work and Barry
19 was I think in my office. I don't know if he was in my office.
20 And I asked Barry, "Hey do you want to go fishing?"

21 Q. All right. And then -- did -- did -- who invited
22 Tim Donelson along?

23 A. I believe it -- it was Bill invited -- I mean, Barry
24 invited Bill and Bill invited Tim. I believe is how it went.
25 Either way --

1 Q. So it was -- it was the five of you; is that right?

2 A. I believe so.

3 Q. All right.

4 MR. AMOLSCH: Let's look at Government's Exhibit 159.

5 BY MR. AMOLSCH:

6 Q. All right. So the government asked you some questions
7 about who was present on this fishing trip?

8 A. Correct.

9 Q. And they asked you about four of the names on this.

10 MR. AMOLSCH: I'm sorry. At the very bottom. I
11 apologize, Ms. Sandvig. All the way at the bottom. Right
12 there. Thank you very much.

13 BY MR. AMOLSCH:

14 Q. Okay.

15 A. Yes.

16 Q. The government asked you questions about four of the
17 people who were there. They asked you about Kekoa Lumho, that's
18 you?

19 A. Yes.

20 Q. They asked you about Barry Atwood, whose that?

21 A. MSO Tech. PVS.

22 Q. They asked you about Bill Wilson --

23 A. Yes.

24 Q. -- who's that? And they asked but Tim Donelson?

25 A. Yes.

1 Q. Now, did they ask you about Dar Maitari, Secret Service?

2 A. No, they did not.

3 Q. So Dar Maitari -- and Dar Maitari, Secret Service, is the
4 one who organized this trip?

5 A. It was his organization, yeah.

6 Q. All right. And Dar is the one who paid -- who had
7 chartered the boat?

8 A. He had chartered the boat, arranged for the captain, and we
9 all paid cash to Dairush to pay for the charter boat, yes.

10 Q. Everybody paid for themselves?

11 A. Everybody paid for themselves.

12 Q. All right. The government asked you some questions about
13 your understanding about whether Fidel was going to be running
14 errands for Bill Wilson.

15 Do you remember those conversations?

16 A. Yes.

17 Q. Okay. So what exactly happened? How many conversations
18 were there about Fidel, Bill Wilson, and running errands. Fill
19 that in.

20 A. There was one conversation about it.

21 Q. Do you remember what --

22 A. Barry was complaining about having to pick up Bill
23 whenever Bill would fly in. To go drive him around to meetings
24 at the DHS or at Level 3, and it was taking time away -- away
25 from -- from Barry.

1 Q. Do you remember when this conversation happened?

2 A. I don't recall exactly, no.

3 Q. Do you remember if it was -- do you remember -- you don't
4 remember it at all?

5 A. I mean. I remember the conversation. There was -- I --
6 I don't remember the exact time. It was prior to Fidel getting
7 the job, though.

8 Q. All right. So did you -- so did you have more than one
9 conversation with Barry Atwood about trying to find
10 employment --

11 A. Yes.

12 Q. -- for Fidel?

13 A. Yes.

14 Q. All right.

15 MR. AMOLSCH: Let's look up Exhibit 938, please.

16 BY MR. AMOLSCH:

17 Q. Do you remember the government asked you questions about
18 this document?

19 A. Yes.

20 Q. Now, did you -- did you have anything to do with
21 preparing this document?

22 A. No. The first time I saw it is when it was given to me
23 from the government.

24 Q. Do you know who provided the information on this
25 document?

1 **A.** I have no idea.

2 MR. AMOLSCH: Ms. Sandvig, so if we could go to the
3 bottom.

4 BY MR. AMOLSCH:

5 **Q.** Mr. Carlberg asked you questions about
6 secretary/assistant.

7 Do you see that?

8 **A.** Yes.

9 **Q.** Do you know who wrote that there?

10 **A.** No. But it doesn't appear to match the handwriting of
11 the rest of the document.

12 **Q.** Did you ever communicate to Mr. Wilson any desire to have
13 Fidel Ramos hired as a secretary/assistant?

14 **A.** I never spoke to Bill about hiring anybody.

15 **Q.** Okay. All right.

16 MR. AMOLSCH: So if we could pull up Government's 174
17 first, please.

18 BY MR. AMOLSCH:

19 **Q.** The government asked you questions about this exhibit
20 relating -- referencing the Hawaii vacation?

21 **A.** Yes.

22 **Q.** All right. Do you have family in Hawaii, Mr. Lumho?

23 **A.** Yes. A lot of family.

24 **Q.** Okay. Do you make -- how many trips have you made to
25 Hawaii do you think in the last 15 years?

1 A. We go every other year to Hawaii.

2 Q. All right. And was Fidel along with you on this trip?

3 A. Yes, he was.

4 Q. And did he withdraw money with his own ATM card while you
5 were on this trip?

6 A. Yes.

7 Q. Okay. Did he pay his own expenses when he -- or
8 contribute to his expenses when he was on this trip?

9 A. Yes.

10 Q. All right. Mr. Carlberg asked you questions about
11 Tim Donelson and Bill Wilson. "We need to talk immediately."
12 Do you see that?

13 A. Yes.

14 Q. Do you have any idea what that conversation was about?

15 A. I have no idea.

16 Q. Were you part of that conversation?

17 A. No, I was not.

18 Q. Mr. Carlberg asked you questions about Fidel's pay rate
19 going up from \$10 to \$50 an hour. Did --

20 A. Yes, I remember.

21 Q. Did you have any knowledge about why that happened?

22 A. I have no idea.

23 Q. Did you even know that happened before that question was
24 posed to you?

25 A. No.

1 Q. The government asked you some questions about the \$6,000
2 check and the \$6,500 check that Fidel received around the
3 time -- in this time period.

4 Do you remember those questions?

5 A. Yes, yes.

6 Q. Okay. What was your understanding about how the \$6,000
7 check came to be?

8 A. I assumed that it was a backlog of checks that he hadn't
9 received or --

10 Q. Did you ask him any questions about the \$6,000 check?

11 A. No. I did not. Again, I don't even think I deposited
12 that check, but I don't know.

13 Q. I'm sorry?

14 A. I don't think I even deposited that check. I signed it,
15 but I don't -- I don't remember depositing that check.

16 Q. All right. And the 6,500 -- \$6,584 check. Do you have
17 any idea what that -- how that number -- what that number
18 represents?

19 A. No.

20 Q. Do you have -- did you ever speak to Fidel about it?

21 A. No, I did not.

22 Q. At this point or at any point in 2012, tell me about how
23 much attention are you paying to the dates and times associated
24 with these events?

25 A. Not very much.

1 Q. Did you know of any connection between your going to
2 Hawaii and Fidel receiving a pay raise?

3 A. No. I -- I -- I. No -- I --

4 Q. Do you know of any connection between your complaining
5 about the price MSO was charging for serv- -- Level 3's charging
6 for services and Fidel receiving a pay raise?

7 A. No. My -- my life at this point was extremely busy. I
8 had plates that I was trying to keep up in the air spinning
9 between my home life with my son, who was under a year old. I
10 had teenage daughters. I had work that was -- that was
11 extremely busy. It was a very, very busy time in my life.

12 Q. Do you know of any connection between Fidel receiving
13 large checks and your complaining to Level 3 about how much
14 they're charging the government?

15 MR. CARLBERG: Asked and answered.

16 THE WITNESS: I have no idea.

17 THE COURT: Yeah. I'll allow it.

18 BY MR. AMOLSCH:

19 Q. The government asked you some questions about Fidel's
20 DWI. They asked you questions about his driver's license
21 application for a restricted driver's license.
22 Do you remember those questions?

23 A. Yes, I do.

24 Q. They asked you about MSO Tech being on the application.
25 Remember those questions?

1 **A.** Yes, yes.

2 **Q.** Did you have anything to do with putting together that
3 driver's license application?

4 **A.** No. I had nothing to do with it.

5 **Q.** Oh. Do you know who did?

6 **A.** I have no idea.

7 **Q.** All right. Same with Fidel's application to work at the
8 Catholic church. Were you involved in any way with his
9 application to work at the Catholic church?

10 **A.** No.

11 **Q.** Did you give him any information for him to use on
12 applying for the job?

13 **A.** No.

14 **Q.** Did he even speak to you about it beforehand?

15 **A.** No, he did not.

16 **Q.** All right.

17 MR. AMOLSCH: Let's pick up Government's Exhibit 231,
18 please.

19 BY MR. AMOLSCH:

20 **Q.** All right. Mr. Lumho, do you remember Mr. Carlberg asked
21 you questions about this?

22 Do you remember this?

23 **A.** Yes, I do.

24 **Q.** He asked you specifically about the bullet points that
25 are kind of centered in the page.

1 MR. AMOLSCH: Can we make that a little bit bigger.

2 BY MR. AMOLSCH:

3 Q. "Consider the following in carrying out your
4 responsibilities as a DAR."

5 Do you remember he asked you about those?

6 A. Yes, I do.

7 Q. Did you ever receive any training that would make you
8 familiar with the terms and conditions of the referenced
9 contract?

10 A. No, I did not.

11 Q. Did you receive any training on ensuring the valid
12 obligating document was in place?

13 A. No, I did not.

14 Q. Did you receive any training on verifying service order
15 requirements?

16 A. No, I didn't.

17 Q. Did you receive any training on the fair opportunity
18 decision?

19 A. No, I did not.

20 Q. Did you receive any training on contractual service
21 ordering procedures?

22 A. No, I did not.

23 Q. Did you receive any training on what the agency standards
24 of conduct were as it relates to the WITS3 contract?

25 A. No, I didn't.

1 Q. Tommy DAR -- Tommy DAR -- Tommy Carlyle, was he also a
2 DAR?

3 A. He was.

4 Q. Would he have -- if you know, would he have signed this
5 same document. A DAR appointment?

6 A. Yes.

7 Q. Okay.

8 MR. AMOLSCH: Let's look at Government's Exhibit 232, if
9 we could. Could we go to page -- do you remember the government
10 asking you questions about this?

11 THE WITNESS: Yes.

12 MR. AMOLSCH: Could we go to Page 27?

13 BY MR. AMOLSCH:

14 Q. The government asked you questions about this. This
15 talks about what you may not do.
16 Do you remember this?

17 A. Yes.

18 Q. Did you ever solicit, accept, or coerce a gift from a
19 prohibited source?

20 A. No.

21 Q. Did you ever solicit, accept, or coerce a gift from
22 anybody?

23 A. No, I did not.

24 MR. AMOLSCH: Let's go to Page 28.

25 BY MR. AMOLSCH:

1 Q. Did you ever --

2 MR. AMOLSCH: I'm sorry, that just lists the prohibited
3 sources. Can we go to Page 29.

4 BY MR. AMOLSCH:

5 Q. Did you ever request, coerce, cash from anybody?

6 A. No.

7 Q. Tangible items?

8 A. No.

9 Q. Services?

10 A. No.

11 Q. A discount on a loan?

12 A. No.

13 Q. Okay.

14 MR. AMOLSCH: And Page 30.

15 BY MR. AMOLSCH:

16 Q. Did anybody indirectly give any of your family members
17 gifts who were a prohibited person, as far as you know?

18 A. Not as far as I know.

19 MR. AMOLSCH: Let's go to 234.

20 BY MR. AMOLSCH:

21 Q. All right. Do you remember being asked these questions?

22 A. Yes.

23 Q. This is a conflict of interest form, correct?

24 A. Yes.

25 Q. Okay. What do you understand this conflict of interest

1 form to mean?

2 A. What did I --

3 Q. Take a look at it and -- I mean, take your time, but
4 Mr. Carlberg asked you questions about it. And I want to follow
5 up.

6 A. Okay. So what did it -- what did it mean?

7 Q. Did you understand what it means to have a conflict of
8 interest? You understood that, right?

9 A. Yes, I do.

10 Q. Mr. Carlberg asked you questions about whether you
11 disclosed that you had a conflict of interest, prior to sitting
12 on the technical review board.

13 Do you remember that?

14 A. Yes.

15 Q. Was this the same technical review board where you voted
16 against Bill Wilson?

17 A. Yes.

18 Q. Did you have a conflict of interest that would have
19 prevented you from voting against Bill Wilson?

20 A. No.

21 MR. CARLBERG: Objection as to the --

22 THE COURT: Sustained, improper question. It's not the
23 conflict of interest that's the subject of this case.

24 BY MR. AMOLSCH:

25 Q. Were you aware of any conflict of interest that you

1 violated?

2 A. No, I was not. I did not give -- I'm sorry.

3 THE COURT: Wait for the next question.

4 BY MR. AMOLSCH:

5 Q. The government asked you questions about Government's
6 Exhibit 157.

7 A. Yes.

8 Q. I think this was about -- yeah, at the bottom. You
9 removed Tom's name and put mine on the orders for all the future
10 ones?

11 A. Correct.

12 Q. What's the date of this e-mail?

13 A. November 4th, 2011.

14 Q. And why did you send Ron that e-mail?

15 A. Because I was the guy that he was going to be working
16 with for these orders.

17 Q. Did Ron keep -- excuse me, keep putting -- did Ron do
18 what you asked?

19 A. No, he did not.

20 Q. Did he continue to put Tommy's name on it?

21 A. Yes.

22 Q. Did Tommy still receive orders?

23 A. He did.

24 Q. Did Tommy still sign orders?

25 A. Yes, he did.

1 MR. AMOLSCH: Let's look at Government's Exhibit -- I'm
2 sorry, I have to get this one. I got it right here.

3 BY MR. AMOLSCH:

4 Q. All right. Do you remember -- I'm sorry. Do you
5 remember the government asking you questions about this?

6 A. Yes.

7 Q. All right. This is an e-mail from you to various people
8 about WITS. What is the significance of this e-mail?

9 A. Um, I'm not sure what the significance of the e-mail is.
10 There was --

11 Q. Why did you write that e-mail?

12 A. Willie and I were bantering back and forth about -- we
13 were joking, Willie and I had a personal relationship, so we
14 were joking with each other.

15 Q. Sorry?

16 A. We were joking with each other.

17 Q. All right. And what's the date on that e-mail?

18 A. October 11th -- October 28th, 2011.

19 Q. 2011.

20 MR. AMOLSCH: Let's look at Government's Exhibit 161.

21 BY MR. AMOLSCH:

22 Q. All right. Do you remember the government asking you
23 questions about this?

24 A. Yes.

25 Q. Do you remember who signed this service order request

1 form?

2 A. This one was for the 400 Army Navy Drive clean-out. That
3 was Tommy Carlyle.

4 Q. Tommy Carlyle. Was he aware of the service order --
5 Statement of Work that went along with that before he signed it?

6 A. Yes.

7 Q. How involved was Tommy Carlyle in the planning of the
8 move from 400 Army Navy Drive to the Mark Center?

9 A. Well, Tommy was in charge of -- he was my liaison -- he
10 was the guy -- the project lead for the restoration, which is
11 what this was.

12 Q. So the government asked you questions about the CLIN,
13 4,171 -- I'm sorry. The CLIN being, I apologize, for the cable
14 installer.

15 A. Yes.

16 Q. Okay. So what was your -- what is your understanding
17 about the relationship of the CLIN to the work and services
18 actually being provided? What was your understanding of that?

19 A. Um --

20 MR. CARLBERG: Objection, asked and answered, going over
21 direct again.

22 THE COURT: I'll allow it.

23 THE WITNESS: What was my understanding of --

24 BY MR. AMOLSCH:

25 Q. The relationship between the CLIN for cable installer and

1 the remarks section: Professional services for network removal
2 400 Army Navy Drive?

3 A. Um, that the more hours you add to it, the bottom line
4 number would -- would change.

5 Q. So how did you view these invoices? They're internally
6 inconsistent?

7 A. So I looked at the service order request as not
8 necessarily placing an order. I looked at it as how I was told
9 to pay for things that ISD was ordering.

10 Q. I need you to stand a little bit closer to the
11 microphone.

12 A. Okay.

13 Q. I didn't hear that last part. I'm sorry.

14 A. I looked at the service order request form as a -- not
15 necessarily a way to place orders but how I was a told to pay
16 for things that ISD was ordering.

17 Q. All right.

18 MR. AMOLSCH: Let's look at 162.

19 BY MR. AMOLSCH:

20 Q. All right. Again, you're asking Tommy to sign and send
21 it back. Do you see that? It says, "Please sign and send --

22 A. Yes.

23 Q. -- to me?" Okay. And why are you asking Tommy to sign
24 it?

25 A. Because Matthew told me to. "Please tell me that the

1 task order was signed."

2 Q. Why are you sign -- why are you asking Tommy to sign --

3 A. I was TDY in Korea.

4 Q. I think the government asked you some questions about the
5 costs associated with the move.

6 Do you remember that? Like how much it cost?

7 A. Yes.

8 Q. All right. Was that cost more or less than the fine for
9 over staying the lease?

10 A. It was much less.

11 MR. AMOLSCH: Could we look at Government's Exhibit 164.

12 BY MR. AMOLSCH:

13 Q. All right. Do you remember Mr. Carlberg and I both asked
14 you questions about this?

15 A. Yes.

16 Q. Why are you forwarding this to Bill Wilson and Level 3?

17 A. To get it purchased.

18 Q. I'm sorry?

19 A. To get it purchased.

20 Q. All right. But why forward it to -- oh, I'm sorry, I'm
21 misreading it. Never mind. I apologize. I misread your
22 e-mail.

23 MR. AMOLSCH: Let's look at 167. If we could go to the
24 service order.

25 BY MR. AMOLSCH:

1 Q. Okay. What is this service order request form for?

2 A. This was for the additional phase 2 of the clean-out at
3 the IG, at our satellite offices.

4 Q. This is the second part of BRAC?

5 A. Yes.

6 Q. Do you see the date?

7 A. Yes.

8 Q. What's the date?

9 A. 3-26-2012.

10 Q. Had the work already been completed by the time you got
11 this order?

12 A. Um, yes.

13 Q. Okay. Was that an unusual or regular occurrence that you
14 would get a service order request form after work had been
15 started or completed?

16 A. That was probably unusual.

17 Q. And the Statement of Work that was associated with that?
18 Do you see that?

19 A. Yes.

20 Q. All right. Mr. Steinberg -- Mr. Carlberg asked you if
21 Mr. Steiniger was on this e-mail. Did you provide this
22 Statement of Work and service order to Mr. Steiniger?

23 A. Yes.

24 MR. AMOLSCH: If we could look at 168. If we can go to
25 the bottom.

1 BY MR. AMOLSCH:

2 Q. Okay. Again, look at the remarks section. What does the
3 remarks section say?

4 A. "Professional services for network removal at 400 Army
5 Navy Drive Arlington, Virginia, SOW dated 3-26."

6 Q. So does the remark section describe the work being done?

7 A. Yes.

8 Q. All right. Did you present that to Mr. Steiniger as
9 well?

10 A. Yes.

11 Q. Okay.

12 MR. AMOLSCH: Let's talk about Government's Exhibit 172.

13 If we could go to the bottom, Ms. Sandvig. Thank you.

14 BY MR. AMOLSCH:

15 Q. Okay. When Ron Capallia called you about this --

16 A. Yes.

17 Q. -- can you describe his demeanor?

18 A. He was panicked. He was panicked.

19 Q. Okay. And why was he -- did he tell you why he was
20 panicked?

21 A. He said Tim Donelson was going to have his behind.

22 Q. All right. And are you familiar with Tim Donelson?

23 A. I was familiar with him, yes.

24 Q. Can you describe his personality?

25 A. He was -- he was a -- he was a bit -- a bit gruff and a

1 bully. I wouldn't want to work for him.

2 Q. I mean, did -- how else did Ron sound? Panicked?

3 A. He did, yes.

4 Q. So you signed it and you sent it back. And you said it
5 was a mistake. Now, why was it a mistake -- why was it a
6 mistake to sign and it send it back?

7 A. Because I shouldn't have signed something that was
8 back-dated and that I didn't even really read.

9 Q. All right. And I think you testified you wished you'd
10 never done it?

11 A. I do wish I'd never done it. I didn't think it would
12 affect me. I thought it was more for Level 3 and Ron.

13 Q. All right.

14 MR. AMOLSCH: If we could look at Government's
15 Exhibit 173. If we could go to the bottom. Okay. Is this 173?
16 Is this the Dell? The Lenovos?

17 A. No.

18 Q. Yes, it is.

19 MR. AMOLSCH: Okay. I'm sorry, Your Honor. My Court's
20 indulgence.

21 BY MR. AMOLSCH:

22 Q. All right. So looking at the bottom, "Kekoa, where did
23 we leave off on the concept of acquiring laptops for the WITS
24 vehicle?" Mr. Carlberg asked you questions about that. Why is
25 Mr. Steiniger asking you about WITS as it relates to those

1 laptops?

2 A. Because he's the one that approved us to -- him and
3 Willie to use WITS to purchase the laptops.

4 Q. All right.

5 MR. AMOLSCH: And if we could go to the actual service
6 order request form, which I think is 112B.

7 BY MR. AMOLSCH:

8 Q. All right. Mr. Carlberg asked you questions about senior
9 telecom specialists for Lenovo installations.

10 Do you remember those questions?

11 A. Yes.

12 Q. He asked you if Lenovo requires installation?

13 A. Correct.

14 Q. Does it?

15 A. No.

16 Q. Was that the same -- were those remarks: "Technical
17 support for the Lenovo installation," in the service order
18 request form when you showed it to Mr. Steiniger?

19 A. Yes. This was the service order that I showed him.

20 Q. Would he know that Lenovos don't require installation?

21 A. Yes.

22 Q. How about Mr. Spivey? Is that what you showed him before
23 he green-lighted --

24 A. Yes.

25 Q. -- the purchase?

1 **A.** Yes.

2 THE COURT: This is all the matters that you went over on
3 direct examination, and beyond what was on cross. So let's
4 finish up.

5 MR. AMOLSCH: I'm about done, Your Honor.

6 THE COURT: Thank you.

7 MR. AMOLSCH: Okay. If we could bring up Government's
8 Exhibit 803 and Government's Exhibit 177.

9 BY MR. AMOLSCH:

10 **Q.** This is 803. Do you recognize that, Mr. Lumho?

11 **A.** Yes.

12 **Q.** The Canon purchase?

13 **A.** Yes.

14 MR. AMOLSCH: If we could go to 177, go to the bottom.

15 BY MR. AMOLSCH:

16 **Q.** All right. So the date -- what's the date on the -- on
17 the request?

18 **A.** 6-20.

19 **Q.** All right. And what's the date that you actually ordered
20 it? The service order request form is actually dated?

21 **A.** 6-11.

22 **Q.** Are those the same cameras?

23 **A.** Yes, it is.

24 MR. CARLBERG: Objection, these are two different exhibits
25 and not what was shown by the government, side-by-side.

1 MR. AMOLSCH: Okay.

2 THE COURT: Overruled. He can --

3 MR. AMOLSCH: The -- um. This is Government's 1550? Oh,
4 I got it. Never mind. I'm sorry. Okay. Let me, um -- let's
5 take those down, Ms. Sandvig.

6 BY MR. AMOLSCH:

7 Q. Let me ask you about Government's Exhibit 1 -- 1550. And
8 the government asked you questions about the front of this
9 e-mail.

10 Do you remember that?

11 A. Yes.

12 Q. Okay. I'm going to ask you some questions though, about
13 the back of the e-mail.

14 THE WITNESS: I believe Ms. Sandvig has it on the --

15 MR. AMOLSCH: Oh, she -- I apologize. Thank you. So,
16 um, this is, um -- can you go down, Ms. Sandvig. I'm sorry, the
17 first -- I apologize. Up. Okay.

18 BY MR. AMOLSCH:

19 Q. So this is from Jennifer Paper. Do you see that at the
20 bottom?

21 A. Yes.

22 MR. AMOLSCH: Okay. And then if we can go to the bottom.
23 Okay. Thanks.

24 BY MR. AMOLSCH:

25 Q. Okay. So this is -- this is an e-mail to you and Mark,

1 right?

2 A. Yes.

3 Q. She's asking you about the Cisco maintenance having been
4 ordered through WITS; is that correct?

5 A. Correct.

6 Q. Is that referencing the SmartNet?

7 A. Yes, it is.

8 Q. Okay. And is she asking about a final cost?

9 A. She is.

10 Q. All right. And down here, do you provide her with
11 numbers? 533,000. Do you see that at the bottom? December?

12 A. That was her e-mail, yes.

13 Q. That was her e-mail to you --

14 A. "Can you let me know if these are also equipment orders."
15 Yes.

16 Q. Okay. Then it says, "Kekoa, you had previously given me
17 some equipment break outs from the WITS bills."

18 A. Correct.

19 Q. What is she -- what are -- are the equipment break outs
20 on the WITS bills that she's talking about?

21 A. I believe that was the spreadsheet that I had sent her.

22 Q. Okay. And did that list the equipment?

23 A. Yes, it did.

24 Q. And it listed the price?

25 A. Yes.

1 Q. And she then says, "Can you let me know if these are also
2 equipment orders."

3 Do you see that?

4 A. Yes.

5 Q. Is she asking you for more information on the equipment?

6 A. On the equipment, yes.

7 Q. And did you provide that information?

8 A. Yes, I did.

9 Q. Okay.

10 MR. AMOLSCH: If we can go to the top.

11 BY MR. AMOLSCH:

12 Q. And you reference in here Cisco maintenance, Polycom
13 maintenance, backup tapes.

14 Do you see that?

15 A. Yes.

16 Q. Do you remember those questions I asked you about the
17 service order request forms related to these?

18 A. Yes.

19 Q. Is that the -- are those the equipment purchases that
20 you're -- Jennifer Paper is talking about?

21 A. Yes, it is.

22 Q. And one last question. I'm sorry, Mr. Lumho. The
23 government asked you about Mr. Spivey, "My patience is wearing
24 thin. I'm about two seconds from having to cancel these orders
25 per Spivey."

1 Do you see that?

2 A. Yes.

3 MR. AMOLSCH: Can you put it back up?

4 BY MR. AMOLSCH:

5 Q. So was Mr. Spivey aware of these order?

6 A. Yes, he was.

7 Q. Was he aware of how they were ordered?

8 A. Yes, he was.

9 MR. AMOLSCH: Court's indulgence. I'm about done.

10 BY MR. AMOLSCH:

11 Q. All right. The government asked you some questions and
12 put the camera in your hand.

13 Do you remember that, Mr. Lumho?

14 A. Yes, I do.

15 Q. Okay. Let me ask you questions about both the camera and
16 the lens.

17 Do you remember that?

18 A. Yes.

19 Q. How much do those two items, if you remember, cost
20 together?

21 A. They would have been over \$3,000.

22 Q. Were those items that could have been purchased using the
23 GPC card?

24 A. That would have been a split purchase.

25 Q. Okay. And was that permitted?

1 A. No. That would have not been permitted.

2 Q. Mr. -- Mr. Carlberg asked you questions about the use of
3 this. And he asked you about questions that came up about use
4 in auditoriums.

5 Do you remember that?

6 A. Yes.

7 Q. All right. Let's talk about Gordon Heddell; the last
8 thing --

9 A. Yes.

10 Q. -- I want to ask you about. Tell me about Gordon
11 Heddell. Was this -- this -- was this camera equipment used at
12 Gordon Heddell's reception?

13 A. No. It wasn't purchased yet.

14 Q. Okay. So walk me through that again.

15 A. Okay.

16 Q. What happened with Gordon Heddell, as it relates to that
17 camera purchase?

18 A. So that camera purchase is a result of the hoops that I
19 had to jump through to get a photographer for Gordon Heddell's
20 retirement.

21 Q. All right. Tell me about that. The government asked you
22 some questions about it, but you know, it sounds like you went
23 through a couple different options for photographers?

24 A. Yes. So Gordon Heddell was the IG. He was a four star
25 equivalent and he wanted to document his retirement. He was --

1 it was in the auditorium. We had planned for weeks in advance
2 about his ceremony. And I was instructed, as an initial task
3 that Matthew asked me to do was to coordinate the photographer
4 for this event.

5 So I reached out to the Pentagon, WHS, and they said that
6 they did not have a photographer available. Let me back up, I'm
7 sorry.

8 First, I went to OCCL, and their part-time photographer
9 was not available. So I went to WHS, they weren't available at
10 that time and date, so they recommended that I reached out to
11 the Army.

12 I reached out to the Army, they had a photographer that
13 was available but on the day of the event, the Army sent me an
14 e-mail saying, that they were not going to be able to send
15 somebody. I could have it backwards. It was one -- WHS was one
16 and the Army. Either way, the one that was supposed to come and
17 be there that morning bailed on us and said they weren't going
18 to be able to come.

19 So I reached back out to the other provider, I believe it
20 was WHS, and they said, "We can accommodate." So that morning
21 they sent me an e-mail saying, "The photographer's on the 7M --
22 7M bus from the Pentagon to the Mark Center, and will be there
23 at 9:00." Which is the time that the event was happening.

24 So when it was all said and done, the retirement was a
25 success. The photographer was there, took pictures, had a

1 similar camera. And that is how I was given an award by Matthew
2 and by Mr. Wilson for the headache that I had to go through and
3 the stress of getting this photographer. It was -- it was a
4 very involved thing with the senior staff of the IG.

5 Q. And did that event lead to the purchase of that camera?

6 A. So that was one of the requirements that came out when we
7 were discussing buying a camera for the Outlook pictures. That
8 was one of the check boxes or requirements that we could use
9 that camera for was to take photos of retirements, auditorium,
10 and ISD would have their own photographer to take pictures that
11 we could put on the Internet, we could post to the Internet.

12 MR. AMOLSCH: Thank you, Your Honor. I have no further
13 questions.

14 THE COURT: All right. Thank you. All right. Mr. Lumho,
15 you may step down and resume your seat, sir.

16 THE WITNESS: Thank you.

17 THE COURT: All right. We're done for today. Do we need
18 a sidebar for any reason or -- at this time before we let the
19 jury go?

20 MR. BURKE: No, sir.

21 MR. AMOLSCH: No, sir.

22 THE COURT: All right. Then obviously, my predictions as
23 usual were wrong that I gave you last night about how far we
24 would get today. But I think that we're close to getting the
25 case to you, and should after a couple of -- I'm not sure

1 how long. I know there are a couple of short witnesses, and
2 we'll go from there, but I think that -- I'm confident that
3 you'll get the jury instructions and closing arguments tomorrow
4 in the case.

5 All right. So real important as usual. Enjoy the
6 evening. Don't do any research, don't investigate the case, and
7 don't speak to anyone about the case. And we'll see you tomorrow
8 at 9:00. Thank you. You're excused.

9 (Jury out at 6:00 p.m.)

10 THE COURT: All right. So you have the two character
11 witnesses you're going to put on that will be short, I'm sure.
12 And then the government's going to put on a rebuttal case in
13 light of the defendant's.

14 MR. BURKE: Your Honor, we may put on a five-minute
15 rebuttal case, maybe 10. But it will be one very short witness
16 and that's it, if -- if at all.

17 THE COURT: Okay. So where are we on jury instructions,
18 then?

19 MR. BURKE: Your Honor, I think, I think the only -- well,
20 the only remaining issues that I'm aware of are, first, whether
21 or not the defendants intend to ask for a lesser included offense
22 instruction, and then the issue about --

23 THE COURT: Willfulness.

24 MR. BURKE: The *mens rea* standard as to -- as to false
25 claims, Your Honor. And I have to admit I did not have much time

1 to research this over the lunch break. I will tell, Your Honor,
2 that my view, at least as of right now, I believe that the -- I
3 believe that -- Court's indulgence -- that the case brought to
4 our attention by Mr. Sears, it predates all of the modern case
5 law from the Supreme Court from *Ratzlaf* to *Cheek*, to *Bryan* that
6 all came down in the 1990s.

7 Most recently, *Bryan versus United States* that I think are
8 the most recent pronouncements from the Supreme Court about how
9 we interpret *mens rea* in federal criminal statutes. And in
10 particular the *Bryan* case, Your Honor, which I think is the most
11 recent pronouncement. It's a 1998 case from the Supreme Court,
12 says that: "Unless the statutory context provides otherwise,
13 when a criminal statute provides that acts be done knowingly,
14 there's no requirement of a proof of knowledge of the law."

15 And so, I would say that, Your Honor, at least where we
16 stand right now, based on the preliminary research that I've
17 done, it seems to me that -- that -- that the *Maher* case, which
18 long predates all of the modern Supreme Court case law on this
19 point, I believe is not -- does not correctly state the law as to
20 287, which requires that the conduct be knowing -- be done
21 knowingly but says nothing about willfulness. And so that --
22 that's my preliminary thought, Your Honor. I'm more than happy
23 to look at this some more tonight and talk with Mr. Sears. We
24 have had a pretty good dialogue in this case about jury
25 instructions, but if I have to take a position right now, Your

1 Honor, I think our position --

2 THE COURT: No. I think it's a good idea for you to take
3 some time when you get back to the office and then you can reach
4 out to Mr. Sears and the two of you can discuss it and let me
5 know what you think, you know, before court.

6 MR. BURKE: We'll do so, Your Honor. And the other thing
7 I'll make sure to do tonight is to circulate a proposed verdict
8 form whenever I know from the defense whether they intend to ask
9 for a lesser included --

10 MR. BURKE: -- or perhaps we could do two; one with and
11 one without the lesser included.

12 THE COURT: Okay. A couple of other jury instruction
13 matters. There's one that was submitted for typewritten
14 transcript of tape recorded conversations. I would think that we
15 do not need that, right?

16 MR. BURKE: Your Honor, I think there's been admitted 179,
17 which is the voicemail from Mr. Lumho, as well as I believe
18 it's -- there's also a voicemail from Mr. Atwood, both of which
19 have been admitted. And I think there are transcripts marked for
20 convenience of the jurors. Neither voicemail is particularly
21 long, so we could just leave out the transcripts and leave out
22 that instruction but --

23 THE COURT: Yeah. I didn't know the transcripts had been
24 admitted.

25 MR. BURKE: They're marked as exhibits and I believe they

1 have been admitted. The transcript of 179 is marked
2 Exhibit 179T, and the transcript for the Barry Atwood recording
3 is whatever it is plus a "T" after it.

4 THE COURT: Well, if they're in, I can just -- I'll leave
5 the instruction in. If they want to look at it they can look at
6 it and then they'll understand the obligation to use the actual
7 tape versus the written transcript if there's a difference.

8 There's an instruction on charts, and it references both
9 611 charts and 1006 charts having been admitted, and I don't know
10 whether the 611 charts were used or --

11 MR. BURKE: I think it's just the --

12 THE COURT: 1006.

13 MR. BURKE: -- 1006 charts.

14 THE COURT: That's what I think. Okay. So we'll take the
15 611 charts out.

16 MR. BURKE: I believe they're all 1006 charts. I think
17 only the second half of that instruction applies.

18 THE COURT: Okay. All right.

19 There's a false exculpatory statements --

20 MR. BURKE: Yes. All that refers to numerous false
21 statements that the government contends that Mr. Wilson made
22 during his deposition, during his bond hearing, during his
23 various interviews with law enforcement.

24 THE COURT: And the same for suppression and fabrication
25 of evidence.

1 MR. BURKE: That's correct, Your Honor. We would point to
2 the destruction of evidence, as well as the back-dating of the
3 false letter signed by Mr. Lumho on that point.

4 THE COURT: All right. And the character evidence
5 instruction is open-ended and refers to truth and veracity,
6 honesty and integrity, and being a law-abiding citizen. And it
7 seems a little broad, and I usually -- well, truth and veracity,
8 is that what you are offering the character --

9 MR. SALVATO: It would just be truth and veracity, Your
10 Honor. I don't -- we don't need the law-abiding, et cetera.

11 THE COURT: Okay.

12 MR. SALVATO: And I would expect it would be reputation
13 and opinion.

14 THE COURT: It reads: "The defendant has offered evidence
15 of his good general reputation for truth and veracity. The jury
16 should consider this evidence along with other evidence in
17 reaching its verdict." So but it also lists honesty and
18 integrity, and being a law-abiding citizen.

19 MR. SALVATO: Just strike law-abiding. I think, that's
20 always awkward to --

21 THE COURT: You want honesty and integrity?

22 MR. SALVATO: Yes, sir.

23 THE COURT: Okay. All right. All right. I'll make that
24 change. Okay. That's all I have on the instructions. So you
25 let us know where you go from there, and we'll -- if you have any

1 other last minute thoughts on them, I'm sure Mr. Sears will go
2 back and think about that tonight some more. We'll deal with it
3 in the morning. All right. So we'll get the case to the jury
4 tomorrow. All right. Anything else before we break for tonight?

5 MR. BURKE: No, Your Honor.

6 MR. AMOLSCH: No, Your Honor.

7 MR. STEWART: No, Your Honor.

8 MR. SEARS: No, Your Honor.

9 THE COURT: All right. Thank you. We're in recess.

10 (Proceedings adjourned at 6:08 p.m.)
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